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State of Arizona
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CHAPTER 136

SENATE BILL 1117

AN ACT

AMENDING SECTIONS 15-1451 AND 38-702, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-706; AMENDING SECTIONS 38-711, 38-719, 38-721, 38-727, 38-729, 38-738, 38-742, 38-743, 38-744, 38-745, 38-747, 38-760, 38-762, 38-769, 38-782, 38-783, 38-797.05, 38-797.07 AND 38-871, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-1451, Arizona Revised Statutes, is amended to
3 read:

4 15-1451. Optional retirement plans

5 A. ~~Notwithstanding section 38-729, subsection I,~~ and Pursuant to
6 section 15-1444, subsection B, paragraph 5, a community college district
7 board may establish an optional retirement program under which contracts
8 providing retirement and death benefits may be purchased for employees of the
9 institutions under its jurisdiction as designated by the community college
10 district board.

11 B. An optional retirement program established pursuant to this section
12 shall:

13 1. Be designed to be a qualified governmental plan under section
14 401(a) of the internal revenue code.

15 2. Comply with all requirements of the internal revenue code
16 applicable to governmental plans.

17 3. Be a qualified plan under section 401(a) of the internal revenue
18 code.

19 4. Apply for and maintain a current letter of determination issued by
20 the United States internal revenue service.

21 5. Be a qualified pick-up plan as defined by section 414(h)(2) of the
22 internal revenue code as confirmed by a private letter ruling issued by the
23 United States internal revenue service.

24 6. Provide benefits through annuity contracts that are fixed or
25 variable in nature or that are a combination of fixed and variable.

26 C. Eligible employees may elect to participate in an optional
27 retirement plan established by the community college district board. The
28 eligible employee shall make the election in writing and file the election
29 with the Arizona state retirement system and the disbursing officer of the
30 employing institution. The eligible employee shall make the election within
31 thirty days of the employee's effective date of employment or, if the
32 employee is a member of the Arizona state retirement system on the date the
33 optional retirement program becomes effective, within ninety days of the
34 effective date of the optional retirement program. If an employee who is a
35 member of the Arizona state retirement system elects to participate in an
36 optional retirement program within thirty days of the employee's effective
37 date of employment or within ninety days of the effective date of the
38 optional retirement program, the Arizona state retirement system shall
39 transfer the employee's contributions to the Arizona state retirement system
40 and interest as determined by the board of the Arizona state retirement
41 system to the optional retirement program within the later of ninety days
42 after the election or ninety days after receipt by the optional retirement
43 program of a favorable letter of determination issued by the United States
44 internal revenue service. If an eligible employee fails to make an election
45 as provided in this subsection, the employee is deemed to have elected to

1 participate in the Arizona state retirement system. The election to
2 participate in an optional retirement program is irrevocable and constitutes
3 a waiver of all benefits provided by the Arizona state retirement system. All
4 eligible employees who elect to participate in an optional retirement program
5 shall remain participants in the optional retirement program during the
6 continuance of employment with the community college district.

7 D. The community college district board shall make contributions from
8 public monies appropriated or any other monies available for this purpose on
9 behalf of each participant in the optional retirement program in an amount
10 equal to the employer contribution prescribed in title 38, chapter 5,
11 article 2.

12 E. Subject to subsection G of this section, each community college
13 district board that establishes an optional retirement program shall
14 establish program provisions including:

15 1. Categories of employees that are eligible to elect to participate
16 in the optional retirement program.

17 2. The employee contribution rate. This rate may be greater than the
18 employee contribution rate prescribed in title 38, chapter 5, article 2.

19 3. A vesting period for employer contributions, if any. All employee
20 contributions that are picked up by the employer are fully vested at all
21 times.

22 4. Restrictions on benefits, except that the optional retirement
23 program shall not allow a participant to withdraw employer contributions
24 except as retirement income payable for life or to provide for loans on
25 retirement income.

26 F. A community college district board may elect to provide health or
27 long-term disability coverage to optional retirement program participants
28 under separate benefit plans. The community college district board may
29 allocate a portion of its employer contribution that would otherwise be made
30 to the optional retirement program under subsection D of this section to the
31 separate benefit plans to provide health or long-term disability coverage.

32 G. Community college district boards that establish an optional
33 retirement program under this section may enter into intergovernmental
34 agreements appointing a single administrator or designating a single
35 community college district board to administer the optional retirement
36 program. A community college district board may satisfy the requirements of
37 this section by entering into an intergovernmental agreement with another
38 community college district board to participate in that community college
39 district's optional retirement program. The administration shall include,
40 without limitation, the design and implementation of the plan document
41 establishing the optional retirement program, compliance with the
42 qualification requirements prescribed in subsection B of this section and
43 such other duties that are not inconsistent with this section as may be
44 delegated to the administrator pursuant to the intergovernmental agreements
45 entered into among the community college district boards.

1 H. Although designated as employee contributions, all employee
2 contributions made to an optional retirement program shall be picked up and
3 paid by the community college district in lieu of contributions by the
4 employee. The contributions picked up by a community college district may
5 be made through a reduction in the employees' salary or an offset against
6 future salary increases, or a combination of both. The employees
7 participating in the optional retirement program do not have the option of
8 choosing to receive the contributed amounts directly instead of the community
9 college district paying the amounts to the optional retirement program. It
10 is intended that all employee contributions that are picked up by the
11 community college district as provided in this subsection shall be treated
12 as employer contributions under section 414(h) of the internal revenue code
13 and shall be excluded from the employees' gross income for federal and state
14 income tax purposes and are includable in the gross income of the employees
15 or their beneficiaries only in the taxable year in which they are
16 distributed.

17 I. A community college district board shall not be liable to any
18 employee, retiree or other person for any reason relating to the community
19 college district board's provision of or failure to provide for an optional
20 retirement program or health or long-term disability coverage.

21 Sec. 2. Section 38-702, Arizona Revised Statutes, is amended to read:

22 38-702. Federal-state agreement

23 A. On behalf of this state the governor may enter into an agreement
24 with the commissioner of social security, consistent with this article, for
25 the purpose of extending the benefits of the federal old age and survivors
26 insurance system to employees of this state or any political subdivision of
27 this state with respect to services that are specified in the agreement and
28 that constitute employment.

29 B. The agreement may contain provisions relating to coverage,
30 benefits, contributions, effective date, modification of the agreement,
31 notification of dissolution of entities, administration and other appropriate
32 provisions to which the state agency and commissioner of social security
33 agree, except that the agreement shall provide in effect the following,
34 unless otherwise required under the social security act:

35 1. Benefits shall be provided for employees whose services are covered
36 by the agreement, and their dependents and survivors, on the same basis as
37 though the services constituted employment within the meaning of title II of
38 the social security act.

39 2. The agreement is effective with respect to services in employment
40 covered by the agreement performed after a date specified in the agreement,
41 but in no event may it be effective with respect to services performed before
42 the first day of the calendar year in which the agreement is entered into or
43 in which the modification of the agreement making it applicable to the
44 services is entered into, but an agreement or modification of an agreement
45 entered into within the period permitted for retroactive coverage of

1 employees under the agreement by title II of the social security act may
2 provide in the agreement or modification of the agreement that the agreement
3 or modification of the agreement is effective with respect to services
4 performed after January 1, 1951, or any date after that date.

5 3. All services that constitute employment and that are performed in
6 the employ of this state by employees of this state are covered by the
7 agreement.

8 4. All services that constitute employment performed in the employ of
9 an eligible political subdivision of this state and that are covered by a
10 plan that is in conformity with the terms of the agreement and that has been
11 approved by the state agency under section 38-703 are covered by the
12 agreement.

13 5. ALL SERVICES DESCRIBED IN EITHER PARAGRAPH 3 OR 4 AND PERFORMED BY
14 INDIVIDUALS IN POSITIONS COVERED BY A RETIREMENT SYSTEM WITH RESPECT TO WHICH
15 THE GOVERNOR HAS ISSUED A CERTIFICATE TO THE COMMISSIONER OF SOCIAL SECURITY
16 PURSUANT TO SECTION 38-706.

17 Sec. 3. Title 38, chapter 5, article 1, Arizona Revised Statutes, is
18 amended by adding section 38-706, to read:

19 38-706. Referenda and certification

20 A. ON REQUEST OF THE BOARD OF TRUSTEES OF A RETIREMENT SYSTEM
21 ESTABLISHED BY THIS STATE, THE GOVERNOR MAY AUTHORIZE A REFERENDUM. ON
22 REQUEST OF THE GOVERNING BODY OF ANY POLITICAL SUBDIVISION THAT HAS
23 ESTABLISHED A RETIREMENT SYSTEM, THE GOVERNOR SHALL AUTHORIZE A REFERENDUM.

24 B. THE REFERENDUM SHALL BE CONDUCTED AND THE GOVERNOR SHALL DESIGNATE
25 AN AGENCY OR INDIVIDUAL TO SUPERVISE ITS CONDUCT, IN ACCORDANCE WITH THE
26 REQUIREMENTS OF SECTION 218(d)(3) OF THE SOCIAL SECURITY ACT, ON THE QUESTION
27 OF WHETHER SERVICE IN POSITIONS COVERED BY THE RETIREMENT SYSTEM SHOULD BE
28 EXCLUDED FROM OR INCLUDED UNDER AN AGREEMENT UNDER THIS ARTICLE. THE NOTICE
29 OF REFERENDUM REQUIRED BY SECTION 218(d)(3)(C) OF THE SOCIAL SECURITY ACT TO
30 BE GIVEN TO EMPLOYEES SHALL CONTAIN OR SHALL BE ACCOMPANIED BY A STATEMENT,
31 IN THE FORM AND DETAIL DEEMED NECESSARY AND SUFFICIENT BY THE AGENCY OR
32 INDIVIDUAL DESIGNATED TO SUPERVISE THE REFERENDUM, TO INFORM THE EMPLOYEES
33 OF THE RIGHTS THAT WILL ACCRUE TO THEM AND THEIR DEPENDENTS AND SURVIVORS,
34 AND THE LIABILITIES TO WHICH THEY WILL BE SUBJECT, IF THEIR SERVICES ARE
35 INCLUDED UNDER AN AGREEMENT UNDER THIS ARTICLE.

36 C. ON RECEIPT OF EVIDENCE SATISFACTORY TO THE GOVERNOR THAT WITH
37 RESPECT TO ANY REFERENDUM THE CONDITIONS SPECIFIED IN SECTION 218(d)(3) OF
38 THE SOCIAL SECURITY ACT HAVE BEEN MET, THE GOVERNOR SHALL SO CERTIFY TO THE
39 COMMISSIONER OF SOCIAL SECURITY.

40 Sec. 4. Section 38-711, Arizona Revised Statutes, is amended to read:

41 38-711. Definitions

42 In this article, unless the context otherwise requires:

43 1. "Active member" means a member as defined in paragraph 22,
44 subdivision (b) of this section who satisfies the eligibility criteria
45 prescribed in section 38-727 and who either is currently making member

1 contributions as prescribed in section 38-736 ~~or is receiving credited~~
2 ~~service under article 2.1 of this chapter.~~

3 2. "Actuarial equivalent" means equality in value of the aggregate
4 amounts expected to be received under two different forms of payment, based
5 on mortality and interest rate assumptions approved from time to time by the
6 board.

7 3. "ASRS" means the Arizona state retirement system established by
8 this article.

9 4. "Assets" means the resources of ASRS including all cash,
10 investments or securities.

11 5. "Average monthly compensation" means:

12 (a) For a member whose membership in ASRS commenced before January 1,
13 1984 and who left the member's contributions on deposit or reinstated
14 forfeited credited service pursuant to section 38-742 for a period of
15 employment that commenced before January 1, 1984, the monthly average of
16 compensation on which contributions were remitted during a period of sixty
17 consecutive months during which the member receives the highest compensation
18 within the last one hundred twenty months of credited service. Any month for
19 which no contributions are reported to ASRS or that falls within a period of
20 nonpaid or partially paid leave of absence or sabbatical leave shall be
21 excluded from the computation. The sixty consecutive months may entirely
22 precede, may be both before and after or may be completely after any excluded
23 months. If the member was employed for less than sixty consecutive months,
24 the average monthly compensation is based on the total consecutive months
25 worked.

26 (b) Effective July 1, 1985, the monthly average of compensation on
27 which contributions were remitted during a period of thirty-six consecutive
28 months during which a member receives the highest compensation within the
29 last one hundred twenty months of credited service. Any month for which no
30 contributions are reported to ASRS or that falls within a period of nonpaid
31 or partially paid leave of absence or sabbatical leave shall be excluded from
32 the computation. The thirty-six consecutive months may entirely precede, may
33 be both before and after or may be completely after any excluded months. If
34 the member was employed for less than thirty-six consecutive months, the
35 average monthly compensation shall be based on the total consecutive months
36 worked. This subdivision applies only to members whose membership in ASRS
37 was effective after December 31, 1983 or who agree in writing as a binding
38 condition of eligibility for being granted the benefit advantages available
39 under this subdivision to have their benefit computed on the basis of the
40 definition of compensation.

41 6. "Board" means the ASRS board established in section 38-713.

42 7. "Compensation" means the gross amount paid to a member by an
43 employer as salary or wages, including amounts that are subject to deferred
44 compensation or tax shelter agreements, for services rendered to or for an
45 employer, or that would have been paid to the member except for the member's

1 election or a legal requirement that all or part of the gross amount be used
2 for other purposes, but does not include amounts paid in excess of
3 compensation limits established in section 38-746. Compensation includes
4 amounts paid as salary or wages to a member by a second employer.
5 Compensation, as provided in paragraph 5, subdivision (b) of this section,
6 does not include:

7 (a) Lump sum payments, on termination of employment, for accumulated
8 vacation or annual leave, sick leave, compensatory time or any other form of
9 termination pay whether the payments are made in one payment or by
10 installments over a period of time.

11 (b) Damages, costs, attorney fees, interest or other penalties paid
12 pursuant to a court order or a compromise settlement or agreement to satisfy
13 a grievance or claim even though the amount of the payment is based in whole
14 or in part on previous salary or wage levels, except that, if the court order
15 or compromise settlement or agreement directs salary or wages to be paid for
16 a specific period of time, the payment is compensation for that specific
17 period of time. If the amount directed to be paid is less than the actual
18 salary or wages that would have been paid for the period if service had been
19 performed, the contributions for the period shall be based on the amount of
20 compensation that would have been paid if the service had been performed.

21 (c) Payment, at the member's option, in lieu of fringe benefits that
22 are normally paid for or provided by the employer.

23 (d) Merit awards pursuant to section 38-613 and performance bonuses
24 paid to assistant attorneys general pursuant to section 41-192.

25 8. "Contingent annuitant" means the person named by a member to
26 receive retirement income payable following a member's death after retirement
27 as provided in section 38-760.

28 9. "Credited service" means, subject to section 38-739, the number of
29 years standing to the member's credit on the books of ASRS during which the
30 member made the required contributions.

31 10. "Early retirement" means retirement before a member's normal
32 retirement date after five years of total credited service and attainment of
33 age fifty.

34 11. "Effective date" means July 1, 1970, except with respect to
35 employers and members whose contributions to ASRS commence thereafter, the
36 effective date of their membership in ASRS is as specified in the applicable
37 joinder agreement.

38 12. "Employer" means:

39 (a) This state.

40 (b) Participating political subdivisions.

41 13. "Employer contributions" means all amounts paid into ASRS by an
42 employer on behalf of a member.

43 14. "Fiscal year" means the period from July 1 of any year to June 30
44 of the following year.

1 15. "Inactive member" means a member who previously made contributions
2 to ASRS and who satisfies each of the following:

3 (a) Has not retired.

4 (b) Is not eligible for active membership in ASRS.

5 (c) Is not currently making contributions to ASRS.

6 (d) Has not withdrawn contributions from ASRS.

7 16. "Interest" means the assumed actuarial investment earnings rate
8 approved by the board.

9 17. "Internal revenue code" means the United States internal revenue
10 code of 1986, as amended.

11 18. "Investment management" means the persons, companies, banks,
12 insurance company investment funds, mutual fund companies, management or any
13 combinations of those entities that are appointed by ASRS and that have
14 responsibility and authority for investment of the monies of ASRS.

15 19. "Late retirement" means retirement after normal retirement.

16 20. "Leave of absence" means any unpaid leave authorized by the
17 employer, including leaves authorized for sickness or disability or to pursue
18 education or training.

19 21. "Life annuity" means equal monthly installments payable during the
20 member's lifetime after retirement.

21 22. "Member":

22 (a) Means any employee of an employer on the effective date.

23 (b) Means all employees of an employer who are eligible for membership
24 pursuant to section 38-727 and who are engaged to work at least twenty weeks
25 in each fiscal year and at least twenty hours each week.

26 (c) Means any person receiving a benefit under ASRS.

27 (d) MEANS ANY PERSON WHO IS A FORMER ACTIVE MEMBER OF ASRS AND WHO HAS
28 NOT WITHDRAWN CONTRIBUTIONS FROM ASRS PURSUANT TO SECTION 38-740.

29 (e) Does not include any employee of an employer who is otherwise
30 eligible pursuant to this article and who begins service in a limited
31 appointment for not more than eighteen months on or after July 1, 1979. If
32 the employment exceeds eighteen months, the employee shall be covered by ASRS
33 as of the beginning of the nineteenth month of employment. In order to be
34 excluded under this subdivision, classifications of employees designated by
35 employers as limited appointments must be approved by the director.

36 (f) DOES NOT INCLUDE ANY LEASED EMPLOYEE. FOR THE PURPOSES OF SECTION
37 414(n) OF THE INTERNAL REVENUE CODE, "LEASED EMPLOYEE" MEANS AN INDIVIDUAL
38 WHO:

39 (i) IS NOT OTHERWISE AN EMPLOYEE OF AN EMPLOYER.

40 (ii) PURSUANT TO A LEASING AGREEMENT BETWEEN THE EMPLOYER AND ANOTHER
41 PERSON, PERFORMS SERVICES FOR THE EMPLOYER ON A SUBSTANTIALLY FULL-TIME BASIS
42 FOR AT LEAST ONE YEAR.

43 (iii) PERFORMS SERVICES UNDER THE PRIMARY DIRECTION OR CONTROL OF THE
44 EMPLOYER.

45 23. "Member contributions" means all amounts paid to ASRS by a member.

1 24. "Normal costs" means costs of ASRS as computed under the projected
2 unit credit method of actuarial computation that would have arisen if the
3 benefits in effect at the time of the computation had always been in effect
4 from the time of earliest eligibility of the current members.

5 25. "Normal retirement age" means the age at which a member reaches the
6 member's normal retirement date.

7 26. "Normal retirement date" means the earliest of the following:

8 (a) A member's sixty-fifth birthday.

9 (b) A member's sixty-second birthday and completion of at least ten
10 years of credited service.

11 (c) The first day that the sum of a member's age and years of total
12 credited service equals eighty.

13 27. "Political subdivision" means any political subdivision of this
14 state.

15 28. "Retired member" means a member who is receiving retirement
16 benefits pursuant to this article.

17 29. "Service year" means fiscal year, except that:

18 (a) If the normal work year required of a member is less than the full
19 fiscal year but is for a period of at least nine months, the service year is
20 the normal work year.

21 (b) For a salaried member employed on a contract basis under one
22 contract, or two or more consecutive contracts, for a total period of at
23 least nine months, the service year is the total period of the contract or
24 consecutive contracts.

25 (c) In determining average monthly compensation pursuant to paragraph
26 5 of this section, the service year is considered to be twelve months of
27 compensation.

28 30. "State" means this state, including any department, office, board,
29 commission, agency, institution or other instrumentality of this state.

30 31. "Vested" means that a member is eligible to receive a future
31 retirement benefit.

32 Sec. 5. Section 38-719, Arizona Revised Statutes, is amended to read:

33 38-719. Investment of monies; limitations

34 A. Investment management may invest and reinvest the monies in its
35 accounts and may hold, purchase, sell, assign, transfer and dispose of any
36 of the securities and investments in which any of its account monies are
37 invested. Investment management shall redeposit the proceeds of sales,
38 maturities and calls in the ASRS depository.

39 B. Investment management shall discharge the duties of the position
40 with the care, skill, prudence and diligence under the circumstances then
41 prevailing that a prudent person acting in a like capacity and familiar with
42 the same matters would use in the conduct of an enterprise of a like
43 character and with like aims as that of ASRS, except that:

1 1. No more than eighty per cent of ASRS assets may be invested at any
2 given time in corporate stocks or equity equivalents, based on cost value of
3 the stocks or equity equivalents irrespective of capital appreciation.

4 2. No more than five per cent of ASRS assets may be invested in
5 securities issued by any one institution, agency or corporation, other than
6 securities issued as direct obligations of or fully guaranteed by the United
7 States government OR MORTGAGE BACKED SECURITIES AND AGENCY DEBENTURES ISSUED
8 BY FEDERAL AGENCIES.

9 3. No more than five per cent of the voting stock of any one
10 corporation may be owned.

11 4. No more than twenty per cent of ASRS assets may be invested in
12 foreign equity securities, and those investments shall be made only by
13 investment managers with demonstrated expertise in those investments.

14 5. No more than ten per cent of ASRS assets may be invested in bonds
15 or other evidences of indebtedness of those multinational development banks
16 in which the United States is a member nation, including the international
17 bank for reconstruction and development, the African development bank, the
18 Asian development bank and the Inter-American development bank.

19 6. No more than one per cent of ASRS assets may be invested in
20 economic development projects authorized as eligible for investment by the
21 department of commerce.

22 C. Notwithstanding any other law, investment management shall not be
23 required to invest in any type of investment that is dictated or required by
24 any entity of the federal government and that is intended to fund economic
25 development projects, public works or social programs but may consider such
26 economically targeted investments pursuant to its fiduciary responsibility.

27 Sec. 6. Section 38-721, Arizona Revised Statutes, is amended to read:

28 38-721. Administration account

29 A. ASRS shall maintain an administration account consisting of all
30 monies for administrative purposes. The following monies shall be deposited
31 in the administration account:

32 1. All monies appropriated by the legislature to pay administrative
33 expenses of ASRS.

34 2. All monies received for proportionate shares of administrative
35 expenses from departments that pay the salaries of their officers and
36 employees wholly or in part from monies received from sources other than
37 appropriations from the state general fund.

38 3. All monies received for proportionate shares of administrative
39 expenses from political subdivisions paying employer contributions.

40 4. Monies that the director transfers from the investment account and
41 that are necessary for the payment of expenditures made pursuant to
42 subsections C and D of this section.

43 B. Except as provided in subsection C of this section, expenditures
44 from the administration account shall be made in accordance with board
45 directives, subject to legislative appropriation.

1 C. ~~Expenditures for investment management fees and related consulting~~
2 ~~fees necessary to meet the board's investment objectives~~ THE FOLLOWING are
3 continuously appropriated and shall be paid from the administration account
4 in the amount deemed necessary by the board: —

5 1. INVESTMENT MANAGEMENT FEES AND RELATED CONSULTING FEES NECESSARY
6 TO MEET THE BOARD'S INVESTMENT OBJECTIVES.

7 2. RENT.

8 3. ACTUARIAL CONSULTING FEES.

9 4. RETIREE PAYROLL.

10 D. With the approval of the board, the director:

11 1. May expend monies from the administration account for staff,
12 expenses and related consulting fees necessary to implement section 38-714,
13 subsection F, paragraphs 1 and 6 and subsection H, paragraphs 2 and 3 and
14 sections 38-755 and 38-756.

15 2. Shall pay from the administration account the costs for
16 administering the health insurance program for retired members pursuant to
17 section 38-782, the cost of continuing education programs for the board and
18 the cost of legal counsel.

19 Sec. 7. Section 38-727, Arizona Revised Statutes, is amended to read:

20 38-727. Eligibility; options

21 The following provisions apply to all employees hired on or after the
22 effective date:

23 1. All employees and officers of this state and all officers and
24 employees of political subdivisions establishing a retirement plan
25 administered by the board pursuant to this article who as a result of state
26 service or service for the political subdivision are included in agreements
27 providing for their coverage under the federal old age and survivors
28 insurance system are subject to this article, except that membership is not
29 mandatory:

30 (a) On the part of any employee who is eligible and who elects to
31 participate in the optional retirement programs established by the Arizona
32 board of regents pursuant to the authority conferred by section 15-1628 or
33 by a community college district board pursuant to authority conferred by
34 section 15-1451.

35 (b) For a state elected official who is subject to term limits, who
36 is eligible for participation in ASRS because the state elected official
37 elected not to participate in the elected officials' retirement plan as
38 provided in section 38-804, subsection A and who elects not to participate
39 in ASRS as provided in paragraph 7 of this section.

40 (c) For an employee of the legislature who elects as provided
41 in paragraph 8 of this section to participate in a tax deferred annuity and
42 deferred compensation program established pursuant to article 5 of this
43 chapter in lieu of participation in ASRS.

1 (d) For exempt state officers or employees as defined in section
2 38-951 who elect to participate in the defined contribution retirement plan
3 option pursuant to article 8 of this chapter.

4 (e) ON THE PART OF ANY EMPLOYEE OR OFFICER WHO IS ELIGIBLE TO
5 PARTICIPATE AND WHO PARTICIPATES IN THE ELECTED OFFICIALS' RETIREMENT PLAN
6 PURSUANT TO ARTICLE 3 OF THIS CHAPTER, THE PUBLIC SAFETY PERSONNEL RETIREMENT
7 SYSTEM PURSUANT TO ARTICLE 4 OF THIS CHAPTER OR THE CORRECTIONS OFFICER
8 RETIREMENT PLAN PURSUANT TO ARTICLE 6 OF THIS CHAPTER.

9 2. All employees and officers of political subdivisions whose
10 compensation is provided wholly or in part from state monies and who are
11 declared to be state employees and officers by the legislature for retirement
12 purposes are subject, on legislative enactment, to this article and are
13 members of ASRS.

14 3. Any member whose service terminates other than by death or
15 withdrawal from membership is deemed to be a member of ASRS until the
16 member's death benefit is paid.

17 4. Employees and officers shall not become members of ASRS and, if
18 they are members immediately before becoming employed as provided by this
19 section, shall have their membership status suspended while they are employed
20 by state departments paying the salaries of their officers and employees
21 wholly or in part from monies received from sources other than appropriations
22 from the state general fund for the period or periods payment of the employer
23 contributions is not made by or on behalf of the departments.

24 5. Notwithstanding other provisions of this section, a temporary
25 employee of the legislature whose projected term of employment is for not
26 more than six months is ineligible for membership in ASRS. If the employment
27 continues beyond six successive months, the employee may elect to either:

28 (a) Receive credit for service for the first six months of employment
29 and establish membership in ASRS as of the beginning of the current term of
30 employment if, within forty-five days after the first six months of
31 employment, both the employer and the employee contribute to ASRS the amount
32 that would have been required to be contributed to ASRS during the first six
33 months of employment as if the employee had been a member of ASRS during
34 those six months.

35 (b) Establish membership in ASRS as of the day following the
36 completion of six months of employment.

37 6. A person who is employed in postgraduate training in an approved
38 medical residency training program of an employer is ineligible for
39 membership in ASRS.

40 7. A state elected official who is subject to term limits and who is
41 eligible for participation in ASRS because the state elected official elected
42 not to participate in the elected officials' retirement plan as provided in
43 section 38-804, subsection A may elect not to participate in ASRS. The
44 election not to participate is specific for that term of office. The state
45 elected official who is subject to term limits shall make the election in

1 writing and file the election with ASRS within thirty days after the elected
2 official's retirement plan mails the notice to the state elected official of
3 the state elected official's eligibility to participate in ASRS. The
4 election is effective on the first day of the state elected official's
5 eligibility. If a state elected official who is subject to term limits fails
6 to make an election as provided in this paragraph, the state elected official
7 is deemed to have elected to participate in ASRS. The election not to
8 participate in ASRS is irrevocable and constitutes a waiver of all benefits
9 provided by ASRS for the state elected official's entire term, except for any
10 benefits accrued by the state elected official in ASRS for periods of
11 participation prior to being elected to an office subject to term limits or
12 any benefits expressly provided by law.

13 8. In lieu of participation in ASRS or the defined contribution
14 retirement plan option pursuant to article 8 of this chapter, an employee of
15 the legislature may elect pursuant to this paragraph to participate in a tax
16 deferred annuity and deferred compensation program established pursuant to
17 article 5 of this chapter. An employee of the legislature shall make the
18 election in writing and file the written election with ASRS. If an employee
19 of the legislature elects to participate in a tax deferred annuity and
20 deferred compensation program pursuant to this paragraph, the election is
21 irrevocable and constitutes a waiver of all benefits provided by ASRS, except
22 for any benefits accrued by the employee before election pursuant to this
23 paragraph. If an employee of the legislature elects to participate in a tax
24 deferred annuity and deferred compensation program pursuant to this
25 paragraph, the employee's employer shall pay an amount equal to five per cent
26 of the employee's base salary directly to the program in lieu of employer
27 contributions to ASRS.

28 Sec. 8. Section 38-729, Arizona Revised Statutes, is amended to read:
29 38-729. Political subdivision plans

30 A. The governing body of any political subdivision may adopt, by
31 appropriate legislation, a supplemental retirement plan for employees and
32 officers of the political subdivision who are included within agreements
33 entered into between the governing body and the state agency providing for
34 the extension of federal old age and survivors insurance benefits to the
35 officers and employees. The supplemental retirement plan shall provide the
36 same retirement benefits and require the same obligations for entitlement as
37 are provided for other members under this article, except that:

38 1. The supplemental retirement plan shall specify the date of
39 commencement of the supplemental retirement plan as the first day of the
40 month following board approval of the supplemental plan of the political
41 subdivision as provided in this section.

42 2. Employer and employee obligations shall be paid to ASRS in
43 accordance with that date.

44 8. The governing body of the political subdivision shall submit the
45 supplemental retirement plan to the board in the form of an agreement. The

1 agreement shall state the terms of the supplemental retirement plan as
2 provided in this section. The board shall either approve or disapprove the
3 supplemental retirement plan submitted by the governing body of the political
4 subdivision.

5 C. On approval, the board shall administer the supplemental plan of
6 the political subdivision.

7 D. The employer's share of contributions and payments in excess of
8 those required of the employer under section 38-737 shall be paid from monies
9 of the political subdivision.

10 E. On establishment of the supplemental retirement plan the governing
11 body of the political subdivision shall deduct member contributions in the
12 same amounts and in the same manner as provided in this article for state
13 employees and shall pay those contributions, together with the employer
14 contributions for the political subdivision, to ASRS for deposit in the ASRS
15 depository. The governing body of the political subdivision shall reimburse
16 ASRS in a similar manner for its pro rata share of administrative costs
17 attributable to coverage of employees of the political subdivision.

18 F. In addition to the employer contributions required under section
19 38-737, on establishment of the supplemental retirement plan the governing
20 body of the political subdivision shall pay to ASRS the amounts, as
21 determined by the board, required to fund additional costs of benefits
22 attributable to service for the political subdivision before the effective
23 date of the supplemental retirement plan. The board may authorize payments
24 to be made at such times as the board requires and in amounts that are less
25 than the amount required for fully funding the additional costs.

26 G. If the supplemental retirement plan is authorized by a political
27 subdivision, then on or after the effective date of the supplemental
28 retirement plan the governing body of the political subdivision and the board
29 may sign an agreement to waive the provisions of subsection F of this section
30 and to authorize benefits under the supplemental retirement plan only for
31 service with the political subdivision after the effective date of the
32 supplemental retirement plan. In lieu of waiving benefits for all service
33 before the effective date of the supplemental retirement plan, the governing
34 body of the political subdivision may elect to waive benefits for a portion
35 of that service. Amendments to the agreement may increase but shall not
36 reduce the service for which a member is entitled to benefits. The governing
37 body of the political subdivision shall certify for each member the years of
38 service before the effective date of the supplemental retirement plan for
39 which the member is entitled to benefits. In addition to the employer
40 contributions required in section 38-737, the governing body of the political
41 subdivision shall pay to ASRS the amount, as determined by the board,
42 required to fund the cost of the benefits attributable to service before the
43 effective date of the supplemental retirement plan for which members are
44 entitled to benefits.

1 H. The new political subdivision shall designate the classification
2 of employees that is eligible for membership in ASRS and shall make
3 contributions each year as provided in this section.

4 ~~I. Before the effective date of membership and as a condition of an~~
5 ~~employer's membership in ASRS, the employer shall formally terminate any~~
6 ~~existing retirement program administered by the board on behalf of the~~
7 ~~designated eligible employee group included in ASRS and shall formally agree~~
8 ~~that no retirement program, exclusive of ASRS and the federal social security~~
9 ~~system, may thereafter be established on behalf of that group.~~

10 ~~J. The board shall transfer all assets under any existing retirement~~
11 ~~program administered by the board, to the extent attributable to the~~
12 ~~employer's designated employee group, from that program to ASRS no later than~~
13 ~~sixty days after the effective date of the supplemental retirement plan. The~~
14 ~~transferred assets shall be considered in determining any additional payments~~
15 ~~prescribed in subsections F and G of this section.~~

16 ~~K. I. The liability of the political subdivision providing a~~
17 ~~supplemental retirement plan within ASRS arises in consideration of the~~
18 ~~officer's or employee's retention in or entrance into service for the~~
19 ~~political subdivision.~~

20 Sec. 9. Section 38-738, Arizona Revised Statutes, is amended to read:

21 38-738. Adjustment and refund

22 A. If more than the correct amount of employer or member contributions
23 is paid into ASRS by an employer through a mistake of fact, ASRS shall return
24 those contributions to the employer if the employer requests return of the
25 contributions within one year after the date of overpayment. ASRS shall not
26 pay an employer earnings attributable to excess contributions but shall
27 reduce the amount returned to an employer pursuant to this section by the
28 amount of losses attributable to the excess contributions.

29 B. If less than the correct amount of employer or member contributions
30 is paid into ASRS by an employer, the following apply:

31 1. The member shall pay an amount that is equal to the amount that
32 would have been paid in member contributions for the period in question. The
33 member's payments shall be made as provided in section 38-747.

34 2. If the member contributions to ASRS made pursuant to this
35 subsection exceed the limits prescribed in section 38-747, subsection E when
36 taking into account other annual additions of the member for the limitation
37 year, the amount to be paid by the member shall be adjusted as provided in
38 section 38-747.

39 3. The employer shall pay to ASRS an amount equal to the amount that
40 would have been paid in employer contributions for the period in question
41 together with accumulated interest that would have accrued on both the
42 employer and member contributions due at the interest rate assumption
43 approved by the board for actuarial equivalency for the period in question
44 to the date payment is received.

1 4. On satisfaction of the requirements of this subsection, the
2 member's salary history on the records of ASRS shall be adjusted and any
3 additional service credits acquired by the member shall be reinstated.

4 5. If the member retires before all contributions are made pursuant
5 to this subsection, the member's benefits shall be calculated only based on
6 the contributions actually made.

7 6. ~~"Annual additions"~~ and SHALL BE DETERMINED AS PROVIDED IN SECTION
8 38-747, SUBSECTION M.

9 7. "Limitation year" ~~have~~ HAS the same meaning prescribed in section
10 38-769.

11 Sec. 10. Section 38-742, Arizona Revised Statutes, is amended to read:

12 38-742. Reinstatement

13 A. If an active member who received a return of contributions on
14 termination of employment and by receipt of those contributions forfeited
15 credited service earned on that employment, as provided in section 38-740,
16 subsection A, is subsequently reemployed by an employer, the member's service
17 shall be credited only from the date the member's most recent reemployment
18 period commenced.

19 B. Notwithstanding subsection A of this section, the member may
20 redeposit the amount of the contributions the member received at the time of
21 the member's separation from service, with interest on that amount to the
22 date of redeposit at the interest rate assumption approved by the board for
23 actuarial equivalency. On satisfaction of this obligation, the member's
24 service credits acquired by the previous employment shall be reinstated. If
25 a member redeposits less than the amount required under this subsection, ASRS
26 shall proportionately reduce the member's reinstated service credits.

27 C. A MEMBER WHO IS RECEIVING BENEFITS PURSUANT TO SECTION 38-797.07
28 AND WHO RECEIVED A RETURN OF CONTRIBUTIONS ON TERMINATION OF EMPLOYMENT AND
29 BY RECEIPT OF THOSE CONTRIBUTIONS FORFEITED CREDITED SERVICE EARNED ON THAT
30 EMPLOYMENT, AS PROVIDED IN SECTION 38-740, SUBSECTION A, MAY REDEPOSIT THE
31 AMOUNT OF THE CONTRIBUTIONS THE MEMBER RECEIVED AT THE TIME OF THE MEMBER'S
32 PREVIOUS SEPARATION FROM SERVICE, WITH INTEREST ON THAT AMOUNT TO THE DATE
33 OF REDEPOSIT AT THE INTEREST RATE ASSUMPTION APPROVED BY THE BOARD FOR
34 ACTUARIAL EQUIVALENCY. ON REDEPOSIT OF THE CONTRIBUTIONS AND INTEREST, THE
35 MEMBER'S SERVICE CREDIT ACQUIRED BY THE PREVIOUS EMPLOYMENT SHALL BE
36 REINSTATED. IF A MEMBER REDEPOSITS LESS THAN THE AMOUNT REQUIRED UNDER THIS
37 SUBSECTION, ASRS SHALL PROPORTIONATELY REDUCE THE MEMBER'S REINSTATED SERVICE
38 CREDITS.

39 Sec. 11. Section 38-743, Arizona Revised Statutes, is amended to read:

40 38-743. Public service credit

41 A. IF an active member of ASRS ~~who previously~~ OR A MEMBER WHO IS
42 RECEIVING BENEFITS PURSUANT TO SECTION 38-797.07 was PREVIOUSLY employed by
43 the United States government, a state of the United States or a political
44 subdivision of a state of the United States, THE MEMBER may receive credited

1 service for this prior employment if the member pays into ASRS the amount
2 prescribed in subsection B OF THIS SECTION.

3 B. A member who elects to receive credit for service with the United
4 States government, a state of the United States or a political subdivision
5 of a state of the United States shall pay to ASRS the amount equal to
6 the product of the member's current annual compensation times the normal
7 cost rate for ASRS for the fiscal year during which the purchase of credited
8 service is being made times the years or partial years of credited service
9 being purchased.

10 C. A member of ~~ASRS~~ who previously was a member of another public
11 employee retirement system and who receives or is eligible to receive
12 retirement benefits from that system for any period of employment is
13 ineligible to receive retirement benefits from ASRS for the same period.

14 Sec. 12. Section 38-744, Arizona Revised Statutes, is amended to read:

15 38-744. Leave of absence; credit for leave without pay

16 A. Any IF AN active member of ASRS who OR A MEMBER WHO IS RECEIVING
17 BENEFITS PURSUANT TO SECTION 38-797.07 is officially granted a leave of
18 absence from employment without pay and who returns to employment with the
19 same employer, unless employment could not be resumed because of disability
20 or nonavailability of a position, THE MEMBER may elect to be credited with
21 service for retirement purposes for not more than one year of the leave by
22 paying to ASRS the amounts as provided in subsection B OF THIS SECTION, if
23 the member has not withdrawn contributions from ASRS and the member's
24 employer has certified that the leave of absence benefits or is in the best
25 interests of the employer.

26 B. An ~~active~~ A member of ~~ASRS~~ who elects to be credited with a leave
27 period as provided in subsection A OF THIS SECTION shall pay to ASRS, ~~unless~~
28 an amount equal to the employer and member contributions for the leave period
29 together with interest at the interest rate assumption approved by the board
30 for actuarial equivalency, based on the salary received by the member before
31 the leave of absence began.

32 C. For the purposes of subsection A OF THIS SECTION, each employer
33 shall adopt rules establishing guidelines for a leave of absence that
34 benefits or is in the best interests of the employer.

35 Sec. 13. Section 38-745, Arizona Revised Statutes, is amended to read:

36 38-745. Credit for military service

37 A. An active member of ASRS OR A MEMBER WHO IS RECEIVING BENEFITS
38 PURSUANT TO SECTION 38-797.07 may purchase credited service in ASRS for
39 active military service if:

40 1. The member was honorably separated from the military service.

41 2. The member submits a copy of the member's military service record
42 (DD-214) or its equivalent with the member's application for military service
43 credit.

44 3. ~~The period of military service for which the participant receives~~
45 ~~credited service is not on account with any other retirement system.~~

1 B. The cost to purchase military service credit is an amount equal to
2 the product of the member's current annual compensation times the normal cost
3 rate for ASRS for the fiscal year during which the purchase of credited
4 service is being made times the years or partial years of credited service
5 being purchased.

6 C. An active member of ASRS who is called to active military service
7 may receive credited service for not more than forty-eight months of active
8 military service. The member's employer shall make employer contributions
9 and member contributions for the member if the member meets the following
10 requirements:

11 1. Was an active member of ASRS on the day before the member began
12 active military service.

13 2. Is a member of the Arizona national guard or is a member of the
14 reserves of any military establishment of the United States.

15 3. Volunteers or is ordered into active military service of the United
16 States as part of a presidential call-up.

17 4. Is honorably separated from active military service and returns to
18 employment for the same employer from which the member left for active
19 military service within ninety days after the date active military service
20 is terminated, is hospitalized as a result of military service and returns
21 to employment for the same employer from which the member left for active
22 military service within ninety days after release from service related
23 hospitalization or dies as a result of the military service.

24 D. Contributions made pursuant to subsection C OF THIS SECTION shall
25 be for the period of time beginning on the date the member began active
26 military service and ending on one of the following dates:

27 1. The date the member is separated from active military service.

28 2. The date the member is released from service related
29 hospitalization or one year after initiation of service related
30 hospitalization, whichever date is earlier.

31 3. The date the member dies as a result of active military service.

32 E. Notwithstanding any other law, on payment of the contributions made
33 pursuant to subsection C OF THIS SECTION, the member shall be credited with
34 service for retirement purposes for the period of time of active military
35 service of not more than forty-eight months.

36 F. The employer shall make contributions pursuant to subsection C OF
37 THIS SECTION based on the salary being received by the member immediately
38 before the member volunteered or was ordered into active military service in
39 a lump sum and without penalty when the member returns to employment or on
40 receipt of the member's death certificate. If a member suffers a service
41 related death, the employer shall make the employer and member contributions
42 up to and including the date of the member's death. Death benefits shall be
43 calculated as prescribed by law.

1 G. In computing the length of total credited service of a member for
2 the purpose of determining retirement benefits or eligibility, the period of
3 military service, as prescribed by this section, shall be included.

4 H. Notwithstanding any other law, the member is not required to
5 reimburse the member's employer or ASRS for any contribution made pursuant
6 to subsection C OF THIS SECTION.

7 I. In addition to, but not in duplication of, the provisions of
8 subsection C, contributions, benefits and credited service provided pursuant
9 to this section shall be provided in accordance with section 414(u) of the
10 internal revenue code.

11 Sec. 14. Section 38-747, Arizona Revised Statutes, is amended to read:

12 38-747. Purchase of credited service; payment; limitations;
13 definitions

14 A. A member who purchases credited service pursuant to section 38-738,
15 38-742, 38-743, 38-744, 38-745 or 38-922 shall either:

16 1. Make payments directly to ASRS as provided in subsection H of this
17 section.

18 2. Elect to have the member's employer make payments as provided in
19 subsection B of this section.

20 B. A member may elect to have the member's employer make payments for
21 all or any portion of the amounts payable for the member's purchase of
22 credited service pursuant to the sections prescribed in subsection A of this
23 section through a salary reduction program in accordance with the following:

24 1. The amounts paid pursuant to a salary reduction program are in lieu
25 of contributions by the electing member. The electing member's salary or
26 other compensation shall be reduced by the amount paid by the employer
27 pursuant to this subsection.

28 2. The member shall make an election pursuant to this subsection at
29 any time on or after the date the member elects to purchase credited service
30 pursuant to the sections prescribed in subsection A of this section and
31 before the member's termination of employment. The election shall specify
32 the number of payroll periods that deductions will be made from the member's
33 compensation and the dollar amount of deductions for each payroll period
34 during the specified number of payroll periods. After an election is made
35 pursuant to this subsection, the election is binding on and irrevocable for
36 the member and the member's employer during the member's remaining period of
37 current employment. After a member makes an irrevocable election pursuant
38 to this subsection, the member does not have the option of choosing to
39 receive the contributed amounts directly.

40 3. A member who makes an irrevocable election pursuant to this
41 subsection to have the member's employer make payments for less than all of
42 the amounts payable for the member's purchase of credited service may
43 irrevocably elect to have the member's employer make payments for all or any
44 portion of the remaining amounts payable for the member's purchase of
45 credited service. A member who makes one or more irrevocable elections

1 pursuant to this subsection may also make other contributions to ASRS
2 pursuant to subsection H of this section to the extent of any remaining
3 amounts payable for which the member has not made an election pursuant to
4 this subsection. An additional election or contribution with respect to a
5 portion of the amounts payable for the member's purchase of credited service
6 does not alter, amend or revoke an irrevocable election already made pursuant
7 to this subsection for any other portion of the amounts payable for the
8 member's purchase of credited service.

9 4. If on termination of the member's current employment all amounts
10 have not been paid to ASRS pursuant to the member's irrevocable election
11 pursuant to this subsection, the member may pay ASRS, within thirty days
12 after the member's termination of employment and subject to other limitations
13 prescribed in this section, all or any portion of the unpaid amounts as
14 provided in subsection H of this section. These payments do not alter, amend
15 or revoke any irrevocable election already made pursuant to this subsection
16 with respect to any amount to be paid by the member's employer while the
17 member is employed by the member's employer.

18 5. Amounts paid by an employer pursuant to this subsection shall be
19 treated as employer contributions for the purpose of determining tax
20 treatment under the internal revenue code. The effective date of employer
21 payments pursuant to this subsection shall not be before the date ASRS
22 receives notification from the United States internal revenue service that
23 pursuant to section 414(h)(2) of the internal revenue code the amounts paid
24 by an employer pursuant to this subsection will not be included in the
25 member's gross income for income tax purposes until those amounts are
26 distributed by refund or retirement benefit payments.

27 6. Unless otherwise provided, member contributions paid by an employer
28 pursuant to this subsection are treated for all other purposes under ASRS in
29 the same manner and to the same extent as member contributions that are not
30 paid by an employer pursuant to this subsection. ASRS shall not grant
31 credited service for contributions made pursuant to this subsection until
32 those contributions are received by ASRS. ASRS may assess interest or
33 administrative charges attributable to any salary reduction election made
34 pursuant to this subsection. The interest or administrative charges shall
35 be added to the amount of contributions that is made to ASRS by the member
36 each payroll period and that is paid by the member's employer. The interest
37 or administrative charges shall not be treated as member contributions for
38 any purposes under this article and a member or a member's beneficiary does
39 not have a right to the return of the interest or administrative charges
40 pursuant to any other provision of this article. Interest assessed pursuant
41 to this subsection shall be at the rate specified by the board pursuant to
42 section 38-711, paragraph 2.

43 C. A member who elects before July 1, 1999 to receive retirement
44 benefits based on section 38-771, subsection C, paragraph 2 or a member who
45 elects to make contributions to ASRS pursuant to section 38-771.01,

1 subsection F, paragraph 4 shall either make the member's additional
2 contributions required pursuant to section 38-771, subsection E or allowed
3 pursuant to section 38-771.01, subsection F, paragraph 4 directly to ASRS as
4 provided in subsection H of this section or shall elect to have the member's
5 employer make payments for those additional contributions as provided in
6 subsection D of this section. A member who elected to be covered or who was
7 deemed to be covered by section 38-771 on or before December 31, 1995 or who
8 elects to make member contributions pursuant to section 38-771.01, subsection
9 F, paragraph 3 is deemed to have made an irrevocable election pursuant to
10 subsection D of this section to make the member's contributions to ASRS that
11 are required by section 38-771, subsection D or allowed by section 38-771.01,
12 subsection F, paragraph 3.

13 D. Any member contributions that are required by section 38-771,
14 subsection D or that are allowed pursuant to section 38-771.01, subsection
15 F, paragraph 3 are deemed to be made by the member to ASRS through a salary
16 reduction program in accordance with the following:

17 1. A member may make member contributions pursuant to section 38-771,
18 subsection E or section 38-771.01, subsection F, paragraph 4 through a salary
19 reduction program elected pursuant to this subsection. If a member makes an
20 irrevocable election pursuant to this subsection before July 1, 1999 to have
21 the member's employer make payments for additional contributions pursuant to
22 section 38-771, subsection E, the election continues in effect from and after
23 June 30, 1999 and shall not be revoked, amended or altered by any election
24 made pursuant to section 38-771.01 or otherwise. The amounts paid pursuant
25 to a salary reduction program are in lieu of contributions by the electing
26 member. The member's salary or other compensation shall be reduced by the
27 amount paid by the employer pursuant to this subsection.

28 2. Before a member's termination of employment, the member may make
29 an election pursuant to this subsection at any time after the date the member
30 elects to receive retirement benefits based on section 38-771, subsection C,
31 paragraph 2 but before July 1, 1999 or at any time after the member elects
32 to make member contributions pursuant to section 38-771.01, subsection F,
33 paragraph 4. The election shall specify the number of payroll periods that
34 deductions will be made from the member's compensation and the dollar amount
35 of deductions for each payroll period during the specified number of payroll
36 periods. After an election is made pursuant to this subsection, the election
37 is binding on and irrevocable for the member and the member's employer during
38 the member's remaining period of current employment.

39 3. After a member makes or is deemed to have made an irrevocable
40 election pursuant to this subsection, the member does not have the option of
41 choosing to receive the contributed amounts directly. A member who makes an
42 irrevocable election pursuant to this subsection to have the member's
43 employer make payments for less than all of the amounts payable for the
44 member's additional contributions allowed by section 38-771.01, subsection
45 F, paragraph 4 may irrevocably elect to have the member's employer make

1 payments for all or any portion of the remaining amounts payable for the
2 member's additional contributions. A member who makes one or more
3 irrevocable elections pursuant to this subsection may also make other
4 contributions to ASRS pursuant to section 38-771.01, subsection F, paragraph
5 4 or pursuant to subsection H of this section to the extent of any remaining
6 amounts payable for which the member has not made an election pursuant to
7 this subsection. An additional election or contribution with respect to a
8 portion of the amounts payable for the member's additional contributions
9 pursuant to section 38-771.01, subsection F, paragraph 4 does not alter,
10 amend or revoke an irrevocable election already made pursuant to this
11 subsection for any other portion of the amounts payable for the member's
12 additional contributions allowed by section 38-771.01, subsection F,
13 paragraph 4.

14 4. If on termination of the member's current employment all amounts
15 have not been paid to ASRS pursuant to the member's irrevocable election
16 pursuant to this subsection, the member may pay ASRS, within thirty days
17 after the member's termination of employment and subject to other limitations
18 prescribed in this section, all or any portion of the unpaid amounts as
19 provided in subsection H of this section. These payments do not alter, amend
20 or revoke any irrevocable election already made pursuant to this subsection
21 with respect to any amount to be paid by the member's employer while the
22 member is employed by the member's employer.

23 5. Amounts paid by an employer pursuant to this subsection shall be
24 treated as employer contributions for the purpose of determining tax
25 treatment under the internal revenue code. The effective date of employer
26 payments pursuant to this subsection shall not be before the date ASRS
27 receives notification from the United States internal revenue service that
28 pursuant to section 414(h)(2) of the internal revenue code the amounts paid
29 by an employer pursuant to this subsection will not be included in the
30 member's gross income for income tax purposes until those amounts are
31 distributed by refund or retirement benefit payments.

32 6. Unless otherwise provided, member contributions paid by an employer
33 pursuant to this subsection are treated for all other purposes under ASRS in
34 the same manner and to the same extent as member contributions that are not
35 paid by an employer pursuant to this subsection.

36 E. The following limits apply to contributions to ASRS:

37 1. Except ~~as provided in~~ TO THE EXTENT paragraphs 2 and 3 of this
38 subsection APPLY TO CERTAIN CONTRIBUTIONS MADE BY A MEMBER TO ASRS, in any
39 one limitation year, the annual additions credited to ASRS for or on behalf
40 of a member shall not exceed the lesser of either:

41 (a) Thirty thousand dollars or a larger amount that is prescribed by
42 the board and that is due to any cost of living adjustment announced by the
43 United States secretary of the treasury pursuant to section 415(d) of the
44 internal revenue code. The board shall increase the amount prescribed by

1 this subdivision as of the effective date of the increase announced by the
2 United States secretary of the treasury.

3 (b) Twenty-five per cent of the member's compensation for the
4 limitation year.

5 2. Unless paragraph 4 of this subsection applies, for plan years
6 beginning on or after July 1, 1998, in any one limitation year, the annual
7 additions credited to ASRS for or on behalf of a member who makes
8 contributions to ASRS to purchase credited service pursuant to section
9 ~~38-738~~, 38-743, 38-744, 38-745 or 38-922 and with respect to which an
10 irrevocable election has not been made pursuant to subsection B of this
11 section shall not exceed the greater of either:

12 (a) The requirements of section 38-769. For the purposes of applying
13 the limits prescribed in section 38-769 under this subdivision, the accrued
14 benefit derived from the contributions shall be treated as an annual benefit
15 and the reduced limit for certain early retirement in section 38-769,
16 subsection C, paragraph 2 does not apply.

17 (b) Except as provided in paragraph 3 of this subsection, the
18 requirements of paragraph 1 of this subsection. The contributions shall be
19 treated as annual additions and any of the member's other annual additions
20 for the limitation year shall be taken into account. For the purposes of
21 applying the requirements of paragraph 1 of this subsection under this
22 subdivision, the percentage of compensation limit in paragraph 1, subdivision
23 (b) of this paragraph does not apply.

24 3. For plan years beginning on or after July 1, 1998, the requirements
25 of paragraph 1 of this subsection shall not be applied to reduce the amount
26 of credited service that may be purchased by an eligible member pursuant to
27 section ~~38-738~~, 38-743, 38-744, 38-745 or 38-922 to an amount that is less
28 than the amount of credited service allowed to be purchased pursuant to those
29 sections on August 5, 1997 without the application of any of the limits
30 prescribed in this section or section 415 of the internal revenue code. For
31 the purposes of this paragraph, "eligible member" means a person who first
32 becomes a member of ASRS before July 1, 1999.

33 4. MEMBER contributions to ASRS to purchase credited service pursuant
34 to section 38-743, 38-744, ~~38-745~~ or 38-922 ~~do not qualify for treatment~~
35 ~~under paragraph 2 of this subsection~~ SHALL NOT BE MADE BY A MEMBER if
36 recognition of that service would cause a member to receive a retirement
37 benefit for the same service from ASRS and one or more other retirement
38 plans. THIS PARAGRAPH DOES NOT APPLY TO EITHER OF THE FOLLOWING:

39 (a) CONTRIBUTIONS MADE BY AN ELIGIBLE MEMBER AS DEFINED IN PARAGRAPH
40 3 OF THIS SUBSECTION, EXCEPT THAT ANY SERVICE PURCHASE BY AN ELIGIBLE MEMBER
41 IS SUBJECT TO ANY OTHER LIMITATIONS, INCLUDING LIMITATIONS ON DUPLICATIVE
42 SERVICE PURCHASE, OTHERWISE PROVIDED IN THIS ARTICLE.

43 (b) ANY MEMBER CONTRIBUTIONS WITH RESPECT TO WHICH AN IRREVOCABLE
44 ELECTION HAS BEEN MADE BY A MEMBER PURSUANT TO SUBSECTION B OF THIS SECTION,
45 EXCEPT THAT THE SERVICE PURCHASE IS SUBJECT TO ANY OTHER LIMITATIONS,

1 INCLUDING LIMITATIONS ON DUPLICATIVE SERVICE PURCHASE, OTHERWISE PROVIDED IN
2 THIS ARTICLE.

3 F. If a member's contributions are subject to the limitations of
4 subsection E of this section, the contributions shall be treated as being
5 made to a separate defined contribution plan. If the member's contributions
6 exceed the limits prescribed in subsection E of this section when taking into
7 account other member and employer contributions to ASRS on behalf of the
8 member for the limitation year, the amount to be paid by the member shall be
9 reduced to not exceed the limits prescribed in subsection E of this section
10 and the remaining amount shall be carried forward to the next limitation
11 year, unless the limits are exceeded in the next limitation year. If the
12 limits are exceeded in the next limitation year, the procedure prescribed by
13 this subsection shall be repeated until all payments have been made.

14 G. If, after the application of subsection F of this section, the
15 annual additions on behalf of a member exceed the limitations prescribed in
16 subsection E of this section, ASRS shall dispose of excess amounts by either
17 of the following:

18 1. Returning to the member any contributions that are made by the
19 member and that are nondeductible under the internal revenue code.

20 2. Holding the amounts in a suspense account established pursuant to
21 subsection J of this section and allocating the amounts as either member or
22 employer contributions for the benefit of the member in the next limitation
23 year and before any further member or employer contributions are made that
24 would constitute annual additions made to a defined contribution plan
25 pursuant to section 415 of the internal revenue code. ASRS shall allocate
26 contributions as prescribed in this section, and the amount allocated shall
27 reduce the amount of the member or employer contributions for the limitation
28 year in which the allocation is made.

29 H. To the extent that a payment under this subsection does not alter,
30 amend or revoke any one or more currently effective irrevocable elections
31 made by the member pursuant to subsection B or D of this section, the board
32 may accept contributions made pursuant to section 38-771 or member
33 contributions for the payment for credited service purchases pursuant to
34 section 38-738, 38-742, 38-743, 38-744, 38-745 or 38-922 or contributions
35 made pursuant to section 38-771.01, subsection F, paragraph 4, in whole or
36 in part, by any one or a combination of the following methods:

37 1. In lump sum payments.

38 2. Subject to the limitations prescribed in sections 401(a)(31) and
39 402(c) of the internal revenue code, accepting eligible rollover
40 distributions directly from one or more retirement programs that are
41 qualified under section 401(a) of the internal revenue code or accepting
42 rollovers directly from a member.

43 3. Subject to the limitations prescribed in section 408(d)(3)(A)(ii)
44 of the internal revenue code, accepting from a member conduit rollover

1 contributions that are received by the member from one or more conduit
2 rollover individual retirement accounts previously established by the member.

3 4. Providing by rule that the contributions may be made in installment
4 payments over a period of time.

5 I. ASRS shall not grant credited service under section 38-738, 38-742,
6 38-743, 38-744 or 38-922 for contributions made pursuant to subsection H of
7 this section until the contributions are received by ASRS. ASRS may assess
8 interest or administrative charges attributable to any installment payment
9 made pursuant to subsection H, paragraph 4 of this section to purchase
10 credited service pursuant to section 38-738, 38-742, 38-743, 38-744 or
11 38-922. The interest or administrative charges shall be added to the amount
12 of contributions made to ASRS by the member. The interest or administrative
13 charges shall not be treated as member contributions for any purposes under
14 this article, and a member or a member's beneficiary does not have a right
15 to the return of the interest or administrative charges pursuant to any other
16 provision of this article. Interest assessed pursuant to this subsection
17 shall be at the rate specified by the board pursuant to section 38-711,
18 paragraph 2.

19 J. ASRS shall establish a suspense account that conforms with 26 Code
20 of Federal Regulations section 1.415-6(b)(6) regarding excess annual
21 additions.

22 K. If the member retires before all payments are made pursuant to this
23 section, ASRS shall calculate the member's benefits based only on the
24 payments actually made.

25 L. On satisfaction of the requirements of this section, ASRS shall
26 adjust the member's credited service history and add any additional service
27 credits acquired.

28 M. Annual additions on behalf of a member in any limitation year shall
29 be the sum of:

30 1. The amount of the member contributions made to ASRS to purchase
31 credited service pursuant to section 38-738, 38-743, 38-744, 38-745 or 38-922
32 and with respect to which an irrevocable election made pursuant to subsection
33 B of this section is not in effect.

34 2. The amount of member and employer contributions made to ASRS on
35 behalf of a member who elected or was deemed to have elected to receive
36 retirement benefits pursuant to section 38-771 or who is entitled to benefits
37 pursuant to section 38-771.01, except that, other than as provided in
38 subsection N of this section, corrective contributions shall be considered
39 annual additions for the limitation years to which the contributions relate
40 and interest and gains shall not be considered as annual additions for the
41 purpose of any limitation prescribed in this article or in section 415 of the
42 internal revenue code. If the corrective contributions exceed the limit on
43 annual additions for a limitation year prior to the limitation year in which
44 the corrective contributions are contributed by the employer to ASRS, the
45 retirement benefit attributable to the excess corrective contributions shall

1 be treated as an excess benefit and shall be payable to the member as any
2 other excess benefit is payable pursuant to section 38-774, and the employer
3 shall pay the excess corrective contributions to the separate unfunded
4 governmental excess benefit arrangement administered by the board pursuant
5 to section 38-774.

6 3. Any member or employer contributions made to ASRS or any other plan
7 that are treated as being made to a defined contribution plan maintained by
8 an employer of the member.

9 4. Any forfeitures, including any income attributable to forfeitures,
10 allocated for or on behalf of a member of ASRS or any other plan that are
11 treated as being allocated under a defined contribution plan maintained by
12 an employer of the member.

13 N. To the extent any portion of the subject benefits, if treated as
14 subject to the benefit limitations of section 415(b) of the internal revenue
15 code, exceed the applicable limitation on benefits pursuant to section 38-769
16 for the form of distribution, a percentage of corrective contributions and
17 interest and gains shall be treated as annual additions for the limitation
18 year in which contributed by the employer to ASRS. This percentage of
19 corrective contributions and interest and gains shall be equal to the
20 percentage determined by dividing the subject benefits that exceed the
21 limitation on benefits pursuant to section 38-769 by the subject benefits.
22 If the corrective contributions and interest and gains that are treated as
23 annual additions for the limitation year in which the corrective
24 contributions and interest and gains are contributed by the employer to ASRS
25 exceed the limit on annual additions for the limitation year, the retirement
26 benefit attributable to the excess shall be treated as an excess benefit and
27 shall be payable to the member as any other excess benefit is payable
28 pursuant to section 38-774, and the employer shall pay the excess to the
29 separate unfunded governmental excess benefit arrangement administered by the
30 board pursuant to section 38-774.

31 O. Subsection M of this section shall be construed and interpreted in
32 accordance with 26 Code of Federal Regulations section 1.415-6 to the extent
33 that section is applicable.

34 P. For the purposes of this section:

35 ~~1. In determining the annual additions credited to a member of ASRS,~~
36 ~~"annual additions" has the same meaning prescribed in 26 Code of Federal~~
37 ~~Regulations section 1.415-6(b).~~

38 ~~2.~~ 1. "Compensation" has the same meaning prescribed in section
39 38-769, except that in determining a member's compensation for purposes of
40 calculating the limits prescribed in subsection E of this section and
41 effective for limitation years beginning on or after July 1, 1998,
42 compensation includes any elective deferrals as defined in section 402(g)(3)
43 of the internal revenue code and any amount that is contributed or deferred
44 by an employer at the election of a member and that is not includable in the

1 gross income of the member pursuant to section 125 or 457 of the internal
2 revenue code.

3 ~~3.~~ 2. "Corrective contributions" means any contributions that are
4 paid by an employer pursuant to section 38-771.01, subsection C, paragraph
5 3 and that are attributable to employer contributions that should have been
6 made for prior limitation years.

7 ~~4.~~ 3. "Defined contribution plan" has the same meaning prescribed in
8 section 38-769.

9 ~~5.~~ 4. "Interest and gains" means employer contributions to ASRS
10 pursuant to section 38-771.01, subsection C, paragraphs 3, 5 and 6 that are
11 attributable to earnings and supplemental credits that would have been earned
12 or added to a member's annuity payment.

13 ~~6.~~ 5. "Limitation year" has the same meaning prescribed in section
14 38-769.

15 ~~7.~~ 6. "Subject benefits" means the retirement benefit received by a
16 member pursuant to section 38-771.01 minus the sum of the portion of such
17 retirement benefit attributable to contributions THAT WERE made by or on
18 behalf of the member to the defined contribution program administered by ASRS
19 for periods before July 1, 1981 and contributions THAT WERE made by the
20 member after June 30, 1981 AND that were not picked up as provided in section
21 414(h)(2) of the internal revenue code.

22 Sec. 15. Section 38-760, Arizona Revised Statutes, is amended to read:
23 38-760. Optional forms of retirement benefits

24 A. On retirement, members may elect an optional form of retirement
25 benefit as provided in this section.

26 B. The optional retirement benefits available under this section
27 include the following:

28 1. Joint and survivor annuity in a reduced amount payable to the
29 retiring member during life, with the provisions that after the member's
30 death all, two-thirds or one-half of the retirement income, as the member
31 elects, shall be continued during the lifetime of the contingent annuitant
32 designated by the retiring member subject to the restrictions prescribed in
33 section 38-764. The amount of retirement income shall be the actuarial
34 equivalent of the retirement income to which the member would be entitled
35 under normal or early retirement. The election in a manner prescribed by the
36 board shall name the contingent annuitant. The election may be revoked at
37 any time before the member's effective date of retirement. At any time after
38 benefits have commenced, the member may name a different contingent annuitant
39 or rescind the election by written notice to the board as follows:

40 (a) If a different contingent annuitant is named, the annuity of the
41 member under the same joint and survivor annuity option previously elected
42 shall be adjusted to the actuarial equivalent of the original annuity, based
43 on the age of the new contingent annuitant. The adjustment shall include all
44 post-retirement increases in retirement income that are authorized by law
45 after the member's date of retirement. Payment of this adjusted annuity

1 shall continue under the provisions of the option previously elected by the
2 member.

3 (b) If the member rescinds the election, the member shall thereafter
4 receive a straight life annuity, equal to what the member would otherwise
5 be entitled to receive if the member had not elected the joint and survivor
6 annuity option, including all post-retirement increases in retirement income
7 that are authorized by law after the date of retirement. The increased
8 payment shall continue during the remainder of the member's lifetime.

9 (c) If the member reverts to a straight life annuity pursuant to
10 subdivision (b), the member may name a new contingent annuitant subject to
11 the same restrictions prescribed in subdivision (a).

12 2. A period certain and life annuity actuarially reduced with payments
13 for five, ten or fifteen years that are not dependent on the continued
14 lifetime of the member but whose payments continue for the member's lifetime
15 beyond the five, ten or fifteen year period. AT ANY TIME, A MEMBER WHO
16 RETIRES AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION MAY
17 RESCIND THE ELECTION OF A PERIOD CERTAIN AND LIFE ANNUITY. IF THE MEMBER
18 RESCINDS THE ELECTION OF A PERIOD CERTAIN AND LIFE ANNUITY, THE MEMBER SHALL
19 THEREAFTER RECEIVE A STRAIGHT LIFE ANNUITY EQUAL TO WHAT THE MEMBER WOULD
20 OTHERWISE BE ENTITLED TO RECEIVE IF THE MEMBER HAD NOT ELECTED THE PERIOD
21 CERTAIN AND LIFE ANNUITY OPTION, INCLUDING ALL POSTRETIREMENT INCREASES IN
22 RETIREMENT INCOME THAT ARE AUTHORIZED BY LAW AFTER THE DATE OF RETIREMENT.
23 THE INCREASED PAYMENT SHALL CONTINUE DURING THE REMAINDER OF THE MEMBER'S
24 LIFETIME. IF THE MEMBER REVERTS TO A STRAIGHT LIFE ANNUITY PURSUANT TO THIS
25 PARAGRAPH, THE MEMBER MAY AGAIN ELECT A PERIOD CERTAIN AND LIFE ANNUITY
26 SUBJECT TO THE SAME PROVISIONS OF THE PERIOD CERTAIN AND LIFE ANNUITY
27 PREVIOUSLY ELECTED BY THE MEMBER.

28 3. Other forms of actuarially reduced optional benefits prescribed by
29 the board.

30 Sec. 16. Section 38-762, Arizona Revised Statutes, is amended to read:
31 38-762. Survivor benefits before retirement; definition

32 A. On the termination of employment by death of any active or inactive
33 member before retirement, the designated beneficiary of the member shall be
34 paid a survivor benefit equal to the sum of both of the following:

35 1. Two times the member's contribution to the defined benefit plan
36 established by this article.

37 2. The amount of the member's employee account and the member's
38 employer account together with supplemental credits, if any, transferred from
39 the defined contribution program administered by ASRS to the defined benefit
40 program established by this article.

41 B. Subsection A, paragraphs 1 and 2 shall be accumulated at compound
42 interest at the valuation rate established by the board through the day of
43 the payment of the benefit.

44 C. In lieu of a single payment, a designated beneficiary who is
45 eligible for a survivor benefit pursuant to subsection A of more than five

1 thousand dollars may elect to receive the actuarial equivalent of the
2 survivor benefit pursuant to one of the following options:

3 1. A monthly income for five, ten or fifteen years certain and for
4 life thereafter.

5 2. Another form of optional benefits approved by the board.

6 D. On the death of an active or inactive member who has reached an
7 early retirement date applicable to the member or who has a minimum of
8 fifteen years of credited service and whose designated beneficiary is a
9 spouse, child under the age of twenty-one or handicapped child age twenty-one
10 or older, including a legally adopted child or a stepchild, ASRS shall pay
11 the designated beneficiary a survivor benefit equal to the present value, on
12 the date following the date of the member's death, of the life annuity that
13 would have been payable to the designated beneficiary if the member had
14 retired on the date of the member's death and elected to receive an annuity
15 in the form of a joint and survivor annuity providing the same amount of
16 annuity to the surviving beneficiary as the reduced amount that would have
17 been payable during the lifetime of the member. If there is more than one
18 designated beneficiary under this subsection, ASRS shall determine the amount
19 of the annuity and its present value as if the oldest of the beneficiaries
20 was the sole beneficiary. Payment under this subsection shall be in lieu of,
21 but not less than, any payment under subsection A. Payment under this
22 subsection, at the election of the designated beneficiary, may be made in a
23 single sum or may be made in accordance with subsection C. A beneficiary may
24 not elect this option unless a benefit of twenty-five dollars or more per
25 month is payable to the designated beneficiary or the designated
26 beneficiary's estate.

27 E. If a member dies before distribution of the member's benefits
28 commences, the member's entire benefits shall be distributed no later than
29 five years after the member's death, except to the extent that, if any
30 portion of the member's interest is payable to a designated beneficiary,
31 distributions may be made in substantially equal installments over the life
32 expectancy of the designated beneficiary or over a period not extending
33 beyond the life expectancy of the beneficiary commencing no later than one
34 year after the member's death.

35 F. ~~If a deceased member did not designate a beneficiary, the board,~~
36 ~~in its sole discretion, may direct payment to the member's estate or to~~
37 ~~another person or persons the board determines to be lawfully entitled to~~
38 ~~receive payment~~ OR THE BENEFICIARY NAMED BY A MEMBER PREDECEASES THE MEMBER,
39 ASRS SHALL PAY THE MEMBER'S SURVIVOR BENEFIT TO THE FOLLOWING PERSONS IN THE
40 FOLLOWING ORDER OF PRIORITY:

41 1. THE MEMBER'S SURVIVING SPOUSE.

42 2. THE MEMBER'S SURVIVING CHILDREN, INCLUDING ADOPTED CHILDREN, IN
43 EQUAL SHARES.

44 3. THE MEMBER'S SURVIVING PARENTS IN EQUAL SHARES.

45 4. THE MEMBER'S ESTATE.

1 G. Any payment pursuant to this section is payment for the account of
2 the member or the member's beneficiary and all persons entitled to payment
3 and, to the extent of the payment, is a full and complete discharge of all
4 liability of the board or ASRS, or both, under or in connection with ASRS.

5 H. For purposes of this section, "designated beneficiary" means any
6 individual designated by the member as the member's beneficiary.

7 Sec. 17. Section 38-769, Arizona Revised Statutes, is amended to read:

8 38-769. Maximum retirement benefits; termination; definitions

9 A. Notwithstanding any other provision of this article, except as
10 provided in subsection C of this section, the employer provided portion of
11 a member's annual benefit, at any time within a limitation year, shall not
12 exceed ninety thousand dollars or a larger amount that is prescribed by the
13 board and that is due to any cost of living adjustment announced by the
14 United States secretary of the treasury pursuant to section 415(d) of the
15 internal revenue code. The board shall increase the amount pursuant to this
16 paragraph as of the effective date of the increase as prescribed by the
17 United States secretary of the treasury.

18 B. Notwithstanding the limitations of subsection A of this section,
19 the benefits payable to a member are deemed not to exceed the limitations
20 determined under subsection A of this section if the retirement benefits
21 payable to the member under this article do not exceed ten thousand dollars
22 for the limitation year and if an employer has not at any time maintained a
23 defined contribution plan in which the member has participated.

24 C. The limitations determined under subsection A of this section are
25 subject to the following adjustments:

26 1. If a member has less than ten years of membership in ASRS, the
27 maximum dollar limitation determined under subsection A of this section shall
28 be multiplied by a fraction, the numerator of which is the number of years,
29 or partial years, of membership in ASRS and the denominator of which is ten.
30 The reduction provided in this paragraph also applies to the ten thousand
31 dollar floor limitation provided in subsection B of this section, except that
32 the reduction applies to years of service with an employer rather than to
33 years of membership in ASRS. The reduction in this paragraph does not reduce
34 the limitations determined under subsection A of this section to an amount
35 less than one-tenth of the limitations as determined without regard to this
36 paragraph.

37 2. If a member's annual benefit commences before the member attains
38 sixty-two years of age, the limitation determined under subsection A of this
39 section shall be adjusted to the actuarial equivalent of an annual benefit
40 equal to the dollar limitation commencing at sixty-two years of age. The
41 actuarial equivalent under this paragraph shall not be less than seventy-five
42 thousand dollars if a member's annual benefit commences at or after
43 fifty-five years of age. If a member's annual benefit commences before
44 fifty-five years of age, the actuarial equivalent shall equal the greater of:

1 (a) The actuarial equivalent of a seventy-five thousand dollar annual
2 benefit for fifty-five years of age.

3 (b) The actuarial equivalent of the dollar limitation determined under
4 subsection A of this section for sixty-two years of age.

5 Actuarial equivalency under this paragraph shall be determined by the use of
6 an interest rate assumption equal to the greater of five per cent a year or
7 the rate specified by the board as provided in section 38-711, paragraph 2.

8 3. If a member's annual benefit commences after sixty-five years of
9 age, the limitation determined under subsection A of this section shall be
10 adjusted to the actuarial equivalent of an annual benefit equal to the dollar
11 limitation commencing at sixty-five years of age. Actuarial equivalency
12 under this paragraph shall be determined by the use of an interest rate
13 assumption equal to the lesser of five per cent a year or the rate specified
14 by the board as provided in section 38-711, paragraph 2.

15 4. If the member's benefit is paid in a form other than an annual
16 benefit, the benefit paid may not exceed the actuarial equivalent of the
17 maximum annual benefit payable as a straight life annuity disregarding the
18 portion of any joint and survivor annuity that constitutes a qualified joint
19 and survivor annuity as defined in section 417 of the internal revenue code.
20 Actuarial equivalency under this paragraph shall be determined by the use of
21 an interest rate assumption equal to the greater of five per cent a year or
22 the rate specified by the board as provided in section 38-711, paragraph 2.

23 5. For the purposes of adjusting any benefit or limitation under
24 paragraph 2, 3 or 4 of this subsection, the board shall use the mortality
25 table prescribed by the United States secretary of the treasury as required
26 by section 415(b)(2)(E)(v) of the internal revenue code.

27 D. Subsection C, paragraphs 1 and 2 of this section do not apply to
28 income received from ASRS as a pension, annuity or similar allowance as a
29 result of the recipient becoming disabled by personal injury or sickness or
30 to amounts received from ASRS by beneficiaries, survivors or the estate of
31 a member as a result of the death of the member.

32 E. For limitation years beginning before July 1, 2000, the board shall
33 limit benefits payable to a member who is a member of ASRS and any other
34 defined benefit plan maintained by the member's employer and a defined
35 contribution plan maintained by the member's employer in a manner it
36 determines to be necessary to prevent the sum of the following fractions from
37 exceeding 1.0:

38 1. The projected annual benefit of the member under ASRS and any other
39 defined benefit plan maintained by the member's employer in which the member
40 participated as of the date of determination divided by the lesser of:

41 (a) The product of 1.25 multiplied by the dollar limitation in effect
42 under subsection A of this section for the limitation year.

43 (b) One hundred forty per cent of the member's average compensation
44 for the member's high three consecutive years of service. For the purposes
45 of this subdivision, a member's high three consecutive years of service is

1 the period of three consecutive years or the actual number of consecutive
2 years of employment for a member who is employed less than three consecutive
3 years with the employer during which the member had the greatest aggregate
4 compensation from the employer.

5 2. The sum of the annual additions on behalf of the member as of the
6 limitation year in which the determination is made under ASRS and any defined
7 contribution plan maintained by the member's employer divided by the lesser
8 of the following amounts determined for the limitation year and for each
9 prior year of service with the employer:

10 (a) The product of 1.25 multiplied by the dollar limitation in effect
11 under section 38-747, subsection E, paragraph 1, subdivision (a) for the
12 limitation year.

13 (b) Thirty-five per cent of the member's compensation in the
14 limitation year.

15 F. ASRS shall compute the fractions prescribed in subsection E of this
16 section as of the close of any limitation year beginning before July 1, 2000.
17 For the purposes of determining a member's projected annual benefit adjusted
18 to an actuarially equivalent straight life annuity if the benefit is
19 expressed in a form other than a straight life annuity or a qualified joint
20 and survivor annuity as defined in section 417 of the internal revenue code
21 under any defined benefit plan maintained by an employer and subject to the
22 limitation prescribed by subsection E of this section, the benefit shall be
23 based on the following assumptions:

24 1. The member will continue covered employment until reaching the
25 member's normal retirement date determined under the defined benefit plan or
26 the current date, whichever is later.

27 2. The member's compensation for the limitation year under
28 consideration will remain constant until the member's normal retirement date
29 or actual retirement.

30 3. All other relevant factors used to determine benefits under the
31 defined benefit plan will remain constant for all future limitation years.

32 G. Notwithstanding any other provision of this section, the annual
33 benefit payable under this article may be reduced to the extent necessary,
34 as determined by the board, to prevent disqualification of ASRS under section
35 415 of the internal revenue code that imposes additional limitations on the
36 annual benefits payable to members who also may be participating in another
37 tax qualified pension or savings plan of this state. An employer shall not
38 provide employee retirement or deferred benefits if the benefits authorized
39 by this section and as required by federal law result in the failure of ASRS
40 to meet federal qualification standards as applied to public pension plans.
41 The board shall advise affected members of any additional information
42 concerning their annual benefits required by this subsection.

43 H. If the maximum amount of benefit allowed under section 415 of the
44 internal revenue code is increased after the commencement date of a member's
45 benefit due to any cost of living adjustment announced by the United States

1 secretary of the treasury pursuant to the provisions of section 415(d) of the
2 internal revenue code, the amount of the monthly benefit payable under ASRS
3 to a member whose benefit is restricted due to the provisions of section
4 415(d) of the internal revenue code shall be increased by the board as of the
5 date prescribed by the United States secretary of the treasury on which the
6 increase shall become effective. The increase shall reflect the increase
7 in the amount of retirement income that may be payable under this article
8 as a result of the cost of living adjustment.

9 I. In determining the adjustments authorized by subsections A and B
10 of this section, the board shall prescribe a larger amount if prescribed by
11 the United States secretary of the treasury pursuant to section 415(d) of the
12 internal revenue code. An adjustment to the dollar limitation prescribed in
13 subsection A of this section is not effective before the first calendar year
14 for which the United States secretary of the treasury publishes the
15 adjustment. After it is prescribed by the board, the new dollar limitation
16 applies to the limitation year ending with or within the calendar year for
17 which the secretary of the treasury makes the adjustment. To the extent
18 provided in regulations promulgated by the United States secretary of the
19 treasury, the adjustments to the limitation made by the board pursuant to
20 subsection C, paragraph 1 of this section shall be applied separately to each
21 change in the benefit structure of ASRS.

22 ~~J. Except for the limitations prescribed in subsection B of this~~
23 ~~section, For the purposes of the limitations prescribed by this section, all~~
24 ~~member and employer contributions made to ASRS to provide a member benefits~~
25 ~~pursuant to section 38-771 OR 38-771.01 and all member contributions that are~~
26 ~~not treated as picked up by the employer under section 414(h)(2) of the~~
27 ~~internal revenue code shall be treated as made to a separate defined~~
28 ~~contribution plan.~~

29 K. On termination of ASRS the accrued benefit of each member is, as
30 of the date of termination, fully vested and nonforfeitable.

31 L. If ASRS terminates, the benefit of any highly compensated employee
32 as defined in section 414(q) of the internal revenue code and any highly
33 compensated former employee is limited to a benefit that is nondiscriminatory
34 under section 401(a)(4) of the internal revenue code and as follows:

35 1. Benefits distributed to any of the twenty-five active and former
36 highly compensated employees with the greatest compensation in the current
37 or any prior fiscal year are restricted so that the annual payments are no
38 greater than an amount equal to the payment that would be made on behalf of
39 the member under a straight life annuity that is the actuarial equivalent of
40 the sum of the member's accrued benefit, the member's other benefits under
41 ASRS, excluding a social security supplement as defined in 26 Code of Federal
42 Regulations section 1.411(a)-7(C)(4)(ii), and the amount the member is
43 entitled to receive under a social security supplement.

44 2. Paragraph 1 of this subsection does not apply if either:

1 (a) After payment of the benefit to a member described in paragraph
2 1 of this subsection, the value of ASRS assets equals or exceeds one hundred
3 ten per cent of the value of the current liabilities, as defined in section
4 412(1)(7) of the internal revenue code, of ASRS.

5 (b) The value of the benefits for a member described in paragraph 1
6 of this subsection is less than one per cent of the value of the current
7 liabilities, as defined in section 412(1)(7) of the internal revenue code,
8 of ASRS before distribution.

9 (c) The value of the benefits payable by ASRS to a member described
10 in paragraph 1 of this subsection does not exceed three thousand five hundred
11 dollars.

12 M. For the purposes of subsection L of this section, "benefit"
13 includes loans in excess of the amount prescribed in section 72(p)(2)(A) of
14 the internal revenue code, any periodic income, any withdrawal values payable
15 to a living member and any death benefits not provided for by insurance on
16 the member's life.

17 N. On retirement of a member who was a retired member, who resumed
18 active membership and who subsequently retires, the limitations of this
19 section in effect on the member's subsequent retirement apply to the member's
20 retirement benefit payable as recomputed pursuant to section 38-766. In
21 addition, the sum of the present value of the member's recomputed retirement
22 benefits plus the present value of the benefits the member received during
23 the member's prior retirement shall not exceed the present value of the
24 limitations in effect on the member's subsequent retirement. The limitations
25 prescribed in this subsection shall not reduce a member's retirement benefit
26 below the retirement benefit the member was receiving before the member
27 resumed active membership. For the purposes of determining present value
28 under this subsection, the board shall use the actuarial equivalent
29 assumptions provided in section 38-711, paragraph 2.

30 O. For purposes of this section:

31 1. ~~"Annual additions" has the same meaning prescribed in 26 Code of~~
32 ~~Federal Regulations section 1.415-6(b)~~ SHALL BE DETERMINED AS PROVIDED IN
33 SECTION 38-747, SUBSECTION M.

34 2. "Annual benefit" means a benefit, including any portion of a
35 member's retirement benefit payable to an alternate payee under a qualified
36 domestic relations order that satisfies the requirements prescribed in
37 section 414(p)(1)(A)(i) of the internal revenue code and section 38-773,
38 payable annually in the form of a straight life annuity, disregarding the
39 portion of a joint and survivor annuity that constitutes a qualified joint
40 and survivor annuity as defined in section 417 of the internal revenue code,
41 with no ancillary or incidental benefits or rollover contributions and
42 excluding any portion of the benefit derived from member contributions or
43 other contributions that are treated as a separate defined contribution plan
44 under section 415 of the internal revenue code but including any of those
45 contributions that are picked up by the employer under section 414(h) of the

1 internal revenue code, or that otherwise are not treated as a separate
2 defined contribution plan. If the benefit is payable in another form, the
3 determination as to whether the limitation described in subsection A of this
4 section has been satisfied shall be made by the board by adjusting the
5 benefit so that it is actuarially equivalent to the annual benefit described
6 in this paragraph in accordance with the regulations promulgated by the
7 United States secretary of the treasury. In addition, for determining the
8 annual benefit attributable to member contributions, the factors described
9 in section 411(c)(2)(B) of the internal revenue code and the regulations
10 promulgated under the internal revenue code shall be used by the board
11 regardless of whether section 411 of the internal revenue code applies to
12 ASRS. The factors described in section 411(c)(2)(B) of the internal revenue
13 code shall be those factors described under section 417(e)(3) of the internal
14 revenue code and determined on the basis of the 417(e) mortality table and
15 an interest rate equal to the annual yield for thirty-year treasury constant
16 maturities, as reported in federal reserve statistical release G-13 and H-15,
17 for the third full calendar month preceding the plan year for which the
18 determination is made. For the purposes of this paragraph, "the 417(e)
19 mortality table" means the mortality table that is published by the United
20 States treasury department as the table to be used for the purposes of
21 section 417(e) of the internal revenue code to determine the single sum value
22 of an accrued benefit.

23 3. "Compensation" means the member's earned income, wages, salaries,
24 fees for professional service and other amounts received for personal
25 services actually rendered in the course of employment with the employer and
26 includes amounts described in sections 104(a)(3) and 105(a) of the internal
27 revenue code, but only to the extent that these amounts are includable in the
28 gross income of the member. Compensation does not mean:

29 (a) Employer contributions to a plan of deferred compensation to the
30 extent the contributions are not included in the gross income of the employee
31 for the taxable year in which contributed, on behalf of an employee to a
32 simplified employee pension plan described in section 408(k) of the internal
33 revenue code and any distributions from a plan of deferred compensation,
34 regardless of whether the amounts are includable in gross income of the
35 employee when distributed, except that any amount received by a member
36 pursuant to an unfunded nonqualified plan may be considered as compensation
37 for the purposes of this section in the year the amounts are includible in
38 the gross income of the member under the internal revenue code.

39 (b) Other amounts that receive special tax benefits, such as premiums
40 for group term life insurance, but only to the extent that the premiums are
41 not includable in the gross income of the employee, or contributions made by
42 the employer, whether or not under a salary reduction agreement, towards the
43 purchase of an annuity contract described in section 403(b) of the internal
44 revenue code, whether or not the contributions are excludable from the gross
45 income of the employee.

1 4. "Defined benefit plan" has the same meaning prescribed in section
2 414(j) of the internal revenue code.

3 5. "Defined contribution plan" has the same meaning prescribed in
4 section 414(i) of the internal revenue code.

5 6. "Limitation year" and "years of service" means the fiscal year.
6 Sec. 18. Section 38-782, Arizona Revised Statutes, is amended to read:
7 38-782. Group health and accident coverage for retired public
8 employees and elected officials and their dependents

9 A. The board shall establish group health and accident coverage for
10 eligible retired and disabled members and their dependents. Eligible retired
11 and disabled members are those members who are receiving retirement benefits
12 from ASRS or long-term disability benefits pursuant to section 38-651.03 or
13 article 2.1 of this chapter and who are ELECT not eligible to obtain health
14 and accident insurance through their former employer. If an insured retired
15 or disabled member dies before the insured member's dependent beneficiary or
16 an insured surviving dependent, the dependent beneficiary or insured
17 surviving dependent is entitled to coverage at group rates if the dependent
18 beneficiary or surviving dependent elects to continue in the coverage within
19 six months of the insured member's death and the dependent beneficiary or
20 surviving dependent agrees to pay the cost of the premium for group health
21 and accident insurance. On notification of the insured member's death, the
22 board shall immediately notify a dependent beneficiary or an insured
23 surviving dependent of the provisions of this section.

24 B. Retired members of the public safety personnel retirement system,
25 the elected officials' retirement plan, the corrections officer retirement
26 plan or the optional retirement programs authorized pursuant to sections
27 15-1451 and 15-1628 and their dependents who are receiving benefits from the
28 public safety personnel retirement system, the elected officials' retirement
29 plan, the corrections officer retirement plan or the optional retirement
30 programs authorized pursuant to sections 15-1451 and 15-1628 and who are not
31 covered by section 38-651.01 may participate in group health and accident
32 coverage provided pursuant to this section. On the death of an insured
33 member of the public safety personnel retirement system, the elected
34 officials' retirement plan, the corrections officer retirement plan or the
35 optional retirement programs authorized pursuant to sections 15-1451 and
36 15-1628, the insured surviving dependent is entitled to coverage at group
37 rates. Except as provided in subsection H of this section, the surviving
38 dependent shall be charged amounts that are sufficient to pay for the premium
39 and administrative expense of providing the coverage.

40 C. The board may enter into agreements with retired and disabled
41 members of ASRS who elect to obtain the coverage provided pursuant to
42 subsection A of this section. Those agreements may include provision for the
43 deduction from the retirement benefits of the members who elect to obtain the
44 coverage of amounts sufficient to pay for the premium not covered under
45 retirement benefits and the administrative expense of providing the coverage.

1 D. The fund manager of the public safety personnel retirement system
2 may enter into agreements with retired members of the public safety personnel
3 retirement system, the elected officials' retirement plan, the corrections
4 officer retirement plan and their dependents who elect to obtain the coverage
5 provided pursuant to this section. Those agreements may include provisions
6 for the deduction from the retirement benefits of the members who elect to
7 obtain the coverage of amounts sufficient to pay for the premium not covered
8 under their retirement benefits and the administrative expense of providing
9 the coverage.

10 E. The board may enter into agreements with retired members of the
11 optional retirement programs authorized pursuant to sections 15-1451 and
12 15-1628 and their dependents who elect to obtain the coverage provided
13 pursuant to this section. Those agreements may include provisions for the
14 payment of amounts sufficient to pay for the premium and administrative
15 expense of providing the coverage.

16 F. If an insured member receiving long-term disability benefits
17 pursuant to article 2.1 of this chapter becomes ineligible for the long-term
18 disability benefits, the member and the covered dependents of the member may
19 continue to participate in the group health and accident coverage provided
20 pursuant to this section subject to the following conditions:

21 1. Participation in the coverage is limited to twelve months from the
22 date the member ceases eligibility for benefits under article 2.1 of this
23 chapter or the member commences employment, whichever occurs first.

24 2. The member shall pay the full premium cost of the coverage
25 selected, and the member is not eligible for benefits pursuant to section
26 38-783.

27 3. If a member who participates in the coverage dies during the twelve
28 month period provided by this subsection, covered dependents of the member
29 ~~are not eligible to~~ MAY continue coverage after the death of the member
30 THROUGH THE END OF THE TWELVE MONTH PERIOD. COVERED DEPENDENTS OF THE MEMBER
31 WHO CONTINUE COVERAGE PURSUANT TO THIS PARAGRAPH SHALL PAY THE FULL PREMIUM
32 COST OF THE COVERAGE SELECTED AND ARE NOT ELIGIBLE FOR BENEFITS PURSUANT TO
33 SECTION 38-783.

34 G. Retired or disabled members who are not eligible for medicare, who
35 live in this state, who enroll in a qualifying health maintenance
36 organization under this section and who reside outside the area of a
37 qualifying health maintenance organization shall be offered the option of
38 enrolling with a qualified health maintenance organization offered through
39 their provider under the same premiums as if they lived within the area
40 boundaries of the qualified health maintenance organization provided that:

41 1. All medical services are rendered and received at an office
42 designated by the qualifying health maintenance organization or at a facility
43 referred by the health maintenance organization.

44 2. All nonemergency or nonurgent travel, ambulatory and other expenses
45 from the residence area of the member to the designated office of the

1 qualifying health maintenance organization or the facility referred by the
2 health maintenance organization are the responsibility of and at the expense
3 of the member.

4 3. All emergency or urgent travel, ambulatory and other expenses from
5 the residence area of the member to the designated office of the qualifying
6 health maintenance organization or the facility referred by the health
7 maintenance organization shall be paid pursuant to any agreement between the
8 health maintenance organization and the member living outside the area of the
9 qualifying health maintenance organization.

10 H. Public monies shall not be spent to pay all or any part of the
11 insurance premium pursuant to this section except for monies authorized to
12 be paid for any insured from the retirement plan from which the insured is
13 receiving benefits.

14 Sec. 19. Section 38-783, Arizona Revised Statutes, is amended to read:

15 38-783. Retired members; dependents; health insurance; premium
16 payment; separate account; definitions

17 A. Subject to subsection F of this section, the board shall pay from
18 ASRS assets part of the single coverage premium of any group health and
19 accident insurance for each retired or disabled member of ASRS if the member
20 elects to participate in the coverage provided by ASRS or section 38-651.01
21 or elects to participate in ~~any other~~ A health and accident insurance
22 coverage PROGRAM provided or administered by an employer OR PAID FOR, IN
23 WHOLE OR IN PART, BY AN EMPLOYER TO AN INSURER. The board shall pay:

24 1. Up to ninety-five dollars per month for a retired or disabled
25 member of ASRS who is not eligible for medicare and who has ten or more years
26 of credited service.

27 2. Up to sixty-five dollars per month for each retired or disabled
28 member of ASRS who is eligible for medicare and who has ten or more years of
29 credited service.

30 B. Subject to subsection F of this section, the board shall pay from
31 ASRS assets part of the family coverage premium of any group health and
32 accident insurance for a retired or disabled member of ASRS who elects family
33 coverage and who otherwise qualifies for payment pursuant to subsection A of
34 this section. Payment under this subsection is in the following amounts:

35 1. Up to one hundred seventy-five dollars per month if the retired or
36 disabled member of ASRS and one or more dependents are not eligible for
37 medicare.

38 2. Up to one hundred fifteen dollars per month if the retired or
39 disabled member of ASRS and one or more dependents are eligible for medicare.

40 3. Up to one hundred forty-five dollars per month if either:

41 (a) The retired or disabled member of ASRS is not eligible for
42 medicare and one or more dependents are eligible for medicare.

43 (b) The retired or disabled member of ASRS is eligible for medicare
44 and one or more dependents are not eligible for medicare.

1 C. In addition each retired or disabled member of ASRS with less than
2 ten years of credited service and a dependent of such a retired or disabled
3 member who elects to participate in the coverage provided by ASRS or section
4 38-651.01 or who elects to participate in ~~any other~~ A health and accident
5 coverage PROGRAM provided or administered by an employer OR PAID FOR, IN
6 WHOLE OR IN PART, BY AN EMPLOYER TO AN INSURER is entitled to receive a
7 proportion of the full benefit prescribed by subsection A or B of this
8 section according to the following schedule:

- 9 1. 9.0 to 9.9 years of credited service, ninety per cent.
10 2. 8.0 to 8.9 years of credited service, eighty per cent.
11 3. 7.0 to 7.9 years of credited service, seventy per cent.
12 4. 6.0 to 6.9 years of credited service, sixty per cent.
13 5. 5.0 to 5.9 years of credited service, fifty per cent.
14 6. Those with less than five years of credited service do not qualify
15 for the benefit.

16 D. The board shall not pay more than the amount prescribed in
17 subsection A or B of this section or the applicable proportion prescribed in
18 subsection C of this section for a retired or disabled member of ASRS.

19 E. The board shall establish a separate account that consists of the
20 benefits provided by this section. The board shall not use or divert any
21 part of the corpus or income of the account for any purpose other than the
22 provision of benefits under this section unless the liabilities of ASRS to
23 provide the benefits are satisfied. If the liabilities of ASRS to provide
24 the benefits described in this section are satisfied, the board shall return
25 any amount remaining in the account to the employer.

26 F. Payment of the benefits provided by this section is subject to the
27 following conditions:

28 1. The payment of the benefits is subordinate to the payment of
29 retirement benefits payable by ASRS.

30 2. The total of contributions for the benefits and actual
31 contributions for life insurance protection, if any, shall not exceed
32 twenty-five per cent of the total actual employer and employee contributions
33 to ASRS, less contributions to fund past service credits, after the day the
34 account is established.

35 3. The board shall deposit the benefits provided by this section in
36 the account.

37 4. The contributions by the employer to the account shall be
38 reasonable and ascertainable.

39 G. For the purposes of this section:

40 1. "Account" means the separate account established pursuant to
41 subsection E of this section.

42 2. "Credited service" includes prior service.

43 3. "Prior service" means service for this state or a political
44 subdivision of this state before membership in the defined contribution
45 program administered by ASRS.

1 Sec. 20. Section 38-797.05, Arizona Revised Statutes, is amended to
2 read:

3 38-797.05. Employer and member contributions

4 A. Beginning July 1, 1996, employers shall contribute the percentage
5 of the compensation of all of the members under their employment so that the
6 total employer contributions equals the amount that the board determines is
7 necessary to pay ONE-half of all benefits under and costs of administering
8 the LTD program.

9 B. Beginning July 1, 1996, a member shall contribute a percentage of
10 the member's compensation equal to the employer contribution for the member
11 required pursuant to subsection A of this section.

12 C. The employer shall pay the member contributions required of members
13 on account of compensation earned. All employer and member contributions
14 shall be paid to the board. The board shall allocate the contributions to
15 the LTD trust fund and shall place the contributions in the LTD program's
16 depository.

17 D. Each employer shall certify on each payroll the amount to be
18 contributed to the LTD program and shall remit that amount to the board. The
19 contributions are irrevocable.

20 E. Payments due pursuant to this article by employers become
21 delinquent after the due date prescribed in the board's rules and thereafter
22 shall be increased by interest from and after that date until payment is
23 received by the board. The board shall charge interest on the delinquent
24 payments at an annual rate ~~determined monthly as the weighted average annual~~
25 ~~rate of return on all repurchase agreements or other short-term investment~~
26 ~~transactions in the ASRS investment account established in article 2 of this~~
27 ~~chapter during the preceding month~~ EQUAL TO THE INTEREST RATE ASSUMPTION
28 APPROVED BY THE BOARD FOR ACTUARIAL EQUIVALENCY PURSUANT TO ARTICLE 2 OF THIS
29 CHAPTER. Delinquent payments due under this subsection, together with
30 interest charges as provided in this subsection, may be recovered by an
31 action in a court of competent jurisdiction against an employer liable for
32 payments or, at the request of the director, may be deducted from any monies,
33 including excise revenue taxes, payable to the employer by any department or
34 agency of this state.

35 F. If more than the correct amount of contributions required is paid
36 by an employer, proper adjustment shall be made in connection with subsequent
37 payments. The board shall return excess contributions to the employer if the
38 employer requests return of the contributions within one year after the date
39 of overpayment.

40 G. Member contributions are not refundable and are not included in the
41 calculation of survivor benefits pursuant to section 38-762.

42 Sec. 21. Section 38-797.07, Arizona Revised Statutes, is amended to
43 read:

44 38-797.07. LTD program benefits; limitations; definitions

45 A. The LTD program is subject to the following limitations:

1 1. Except as provided in paragraph 7, monthly benefits shall not
2 exceed two-thirds of a member's monthly compensation at the time disability
3 commences, reduced by:

4 (a) Sixty-four per cent of social security disability benefits that
5 the member or the member's dependents are eligible to receive.

6 (b) Eighty-three per cent of social security retirement benefits that
7 the member is eligible to receive.

8 (c) All of any workers' compensation benefits.

9 (d) All of any payments for a veteran's disability if both of the
10 following apply:

11 (i) The veteran's disability payment is for the same condition or a
12 condition related to the condition currently causing the member's total
13 disability.

14 (ii) The veteran's disability is due to, or a result of, service in
15 the armed forces of the United States.

16 (e) All of any other benefits by reason of employment that are
17 financed partly or wholly by an employer, including payments for sick leave.

18 (f) Fifty per cent of any salary, wages, commissions or similar pay
19 that the member receives or is entitled to receive from any gainful
20 employment in which the member actually engages.

21 2. Monthly benefits are not payable until a member has been totally
22 disabled for a period of six consecutive months.

23 3. Monthly benefits are not payable to a member who is receiving
24 retirement benefits from ASRS.

25 4. Monthly benefits are not payable to a member whose disability is
26 due to, or a result of, any of the following:

27 (a) An intentionally self-inflicted injury.

28 (b) War, whether declared or not.

29 (c) An injury incurred while engaged in a felonious criminal act or
30 enterprise.

31 (d) An injury or sickness for which the member received medical
32 treatment within three months before the date of the member's coverage under
33 the LTD program. This subdivision does not apply to a member who either:

34 (i) Has been an employee of an employer for twelve continuous months.

35 (ii) Is employed by an employer as of June 30, 1988.

36 5. Monthly benefits cease to be payable to a member at the earliest
37 of the following:

38 (a) The date the member ceases to be totally disabled.

39 (b) The date the member ceases to be under the direct care of a doctor
40 or refuses to undergo any medical examination requested by the insurance
41 company selected by the board to administer the LTD program.

42 (c) The date the member withdraws employee contributions with interest
43 and ceases to be a member.

44 (d) The later of the following:

45 (i) The member's normal retirement date.

1 (ii) The month following sixty months of payments if disability occurs
2 before sixty-five years of age.

3 (iii) The month following attainment of seventy years of age if
4 disability occurs at sixty-five years of age or after but before sixty-nine
5 years of age.

6 (iv) The month following twelve months of payments if disability
7 occurs at or after sixty-nine years of age.

8 6. Monthly benefits are payable under the LTD program only for
9 disabilities that commence on or after July 1, 1988.

10 7. The minimum benefit for a member who is entitled to receive
11 benefits under the LTD program is fifty dollars per month.

12 8. Members are eligible to receive the benefits and payments described
13 in paragraph 1, and the reductions provided by paragraph 1 apply even though
14 the benefits are not actually paid as follows:

15 (a) For primary or dependent social security benefits, the members are
16 eligible for the benefits until the benefits are actually awarded, or if the
17 benefits are denied, until notice of the denial of the appeal of the first
18 denial is received.

19 (b) For benefits and payments from any other source provided
20 in paragraph 1, the members are eligible for the benefits if it is
21 reasonable to believe that the benefits will be paid on proper completion of
22 the claim or would have been paid except for the failure of the member to
23 pursue the claim in time.

24 9. A member shall be considered totally disabled if:

25 (a) During the first thirty months of a period of disability, the
26 member is unable to perform all duties of the position held by the member
27 when the member became totally disabled.

28 (b) For a member who has received monthly benefits for twenty-four
29 consecutive months, that a member is unable to perform any work for
30 compensation or gain for which the member is reasonably qualified by
31 education, training or experience IN AN AMOUNT AT LEAST EQUAL TO THE
32 SCHEDULED BENEFITS PRESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION.

33 B. A member who receives monthly benefits from the LTD program is
34 entitled to receive service credit pursuant to article 2 of this chapter from
35 the time disability commences until benefits cease to be payable, except that
36 for a member who receives monthly benefits from the LTD program on or after
37 June 30, 1999 the number of years of service credited to the member's
38 retirement account during the period the member receives LTD benefit payments
39 shall not cause the member's total credited service for retirement benefits
40 to exceed the greater of thirty years or the total years of service credited
41 to the member's retirement account on the commencement of disability.

42 C. For the purposes of this section:

43 1. "Received medical treatment" means that the member consulted with
44 or received the advice of a licensed medical or dental practitioner,
45 including advice given during a routine examination, and it includes

1 situations in which the member received medical or dental care, treatment or
2 services, including the taking of drugs, medication, insulin or similar
3 substances.

4 2. "Social security" and "social security disability" includes the
5 railroad retirement act of 1974 (P.L. 93-445; 88 Stat. 1305; 45 United States
6 Code sections 231 through 231u).

7 Sec. 22. Section 38-871, Arizona Revised Statutes, is amended to read:

8 38-871. Annuity and deferred compensation governing committee;

9 members; powers and duties

10 A. ~~There is established~~ A governing committee for tax deferred annuity
11 and deferred compensation plans ~~which shall consist~~ IS ESTABLISHED THAT
12 CONSISTS of the following seven members:

13 1. Three employees of the state appointed by the governor.

14 2. The director of the department of administration or ~~his appointee~~
15 THE DIRECTOR'S DESIGNEE.

16 3. The superintendent of the state banking department or ~~his appointee~~
17 THE SUPERINTENDENT'S DESIGNEE.

18 4. The director of insurance or ~~his appointee~~ THE DIRECTOR'S DESIGNEE.

19 5. The director of the ARIZONA state retirement system OR THE
20 DIRECTOR'S DESIGNEE.

21 B. The governing committee may:

22 1. Investigate and approve tax deferred compensation and annuity
23 programs which give employees of the state income tax benefits authorized by
24 title 26, United States Code Annotated.

25 2. In carrying out the purposes of this article, enter into agreements
26 with life insurance companies authorized to do business in this state and
27 with bank trustees or custodians and investment counseling firms registered
28 with the securities exchange commission.

29 C. The governing committee shall:

30 1. Arrange for consolidated billing and efficient administrative
31 services in order that any such plans approved shall operate without cost or
32 contribution from the state except for the incidental expense of
33 administering the payroll salary deduction or reduction and remittance
34 thereof to the trustee or custodian of the plan or plans.

35 2. Meet monthly or more frequently as the chairman of the committee
36 deems necessary.

37 3. Arrange for an annual financial audit of the programs and a
38 performance audit of the programs at least once every three years.

39 4. Promulgate ADOPT rules and ~~regulations~~ governing the solicitation
40 of employees by persons offering tax deferred compensation or annuity plans
41 to such employees.

APPROVED BY THE GOVERNOR APRIL 17, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2001.

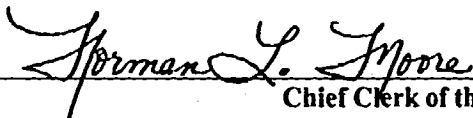
Passed the House April 10, 20 01,

by the following vote: 54 Ayes,

2 Nays, 4 Not Voting



Speaker of the House

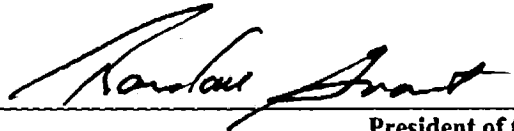


Chief Clerk of the House

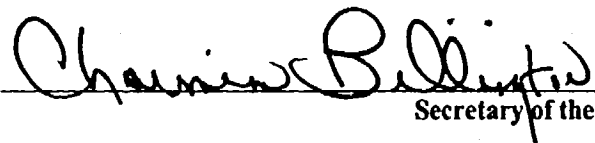
Passed the Senate February 12, 20 01,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting



President of the Senate



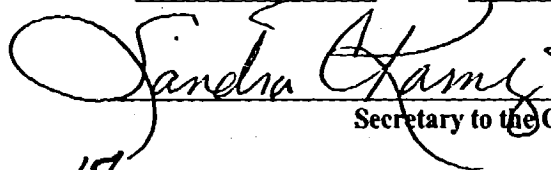
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

11 day of April, 2001,

at 11:03 o'clock A M.



Secretary to the Governor

Approved this 17 day of

April, 2001,

at 11:08 o'clock A M.



Governor of Arizona

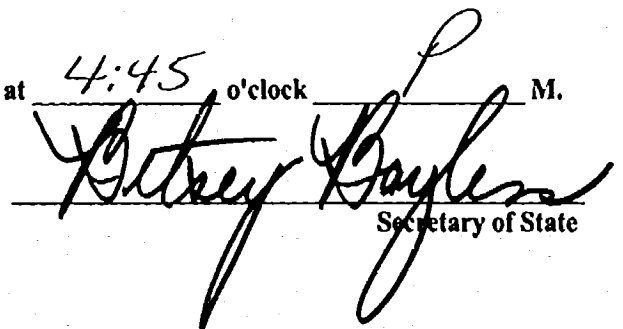
S.B. 1117

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 17 day of April, 2001,

at 4:45 o'clock P M.



Secretary of State